

**THE GEORGIA LEGAL SERVICES PROGRAM
MANUAL
for
PRIVATE ATTORNEY INVOLVEMENT**

A Manual for GLSP Pro Bono Coordinators, Staff & Volunteers

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**Prepared by:
Mike Monahan
Pro Bono Project Director
State Bar of Georgia
104 Marietta Street, Suite 100
Atlanta, Georgia 30303
(404) 527-8763
mike@gabar.org**

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THE GEORGIA LEGAL SERVICES PROGRAM MANUAL FOR PRIVATE ATTORNEY INVOLVEMENT

This manual has been designed for GLSP staff as well as for GLSP's volunteer and reduced fee attorneys.

The manual sets out standard policy for handling pro bono, Judicare, reduced fee and lawyer referral matters. The manual has been designed to allow local offices to adapt it for local use. Form letters and materials used by PAI coordinators on a regular basis are included, as are GLSP eligibility criteria and LSC regulations pertaining to PAI.

We have incorporated "LSC Restrictions and Requirements: Impact on PAI Programs and Private Attorneys" (March 2000 CLASP Update). We express our appreciation to Allen Houseman and Linda Perle of the Center for Law and Social Policy for allowing us to reprint this very useful paper. More information on CLASP and its services can be found at: www.clasp.org.

GLSP Pro Bono Coordinators participated in the design and content selection for this manual. We appreciate their assistance and comments. Special thanks are owed to Lucille Wright, PAI Coordinator of the Augusta Regional Office of GLSP, for the contribution of her manual which served as the starting point for this effort.

This manual is available in electronic format and will be updated periodically.

For more information on this manual, contact Mike Monahan, Pro Bono Project Director, State Bar of Georgia, 104 Marietta Street, Suite 100, Atlanta, Georgia 30303; (404) 527-8763; mike@gabar.org, www.gabar.org, www.ABC-Georgia.org and www.legalaid-ga.org.

**THE GEORGIA LEGAL SERVICES PROGRAM
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FOR

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1.00 PROJECT DESCRIPTION

1.10 Sponsors

The [INSERT OFFICE PRO BONO PROGRAM] is an effort jointly sponsored by the private bar and the [INSERT OFFICE NAME] Regional Office of the Georgia Legal Services Program (GLSP) to provide lawyers to persons living in the area served by our office who need civil legal representation but cannot afford a lawyer.

1.20 Purposes

This manual covers four principal programs operated by GLSP: **Pro Bono**, "**We Pay You a Reduced Fee**", "**Client Pays A Reduced Fee**" and our general **Lawyer Referral Programs**. These programs cover civil matters only, but lawyers participating in the general **Lawyer Referral Program** may indicate the willingness to accept criminal matters representation.

Our Pro Bono Programs operate in all of GLSP's service area (154 counties outside the 5 core Atlanta counties of Cobb, Gwinnett, Fulton, Clayton and DeKalb); "**We pay You a Reduced Fee**" programs (also known as Judicare) operate in many, mostly rural counties. Some GLSP regional offices do not offer this program. Our "**Client Pays a Reduced Fee**" programs operate in the Macon, Columbus and Dalton regions, and may be extended into other areas in the future. The general **Lawyer Referral Program** operates in all of GLSP's service territory.

Volunteer lawyers will be provided to low-income persons who have civil matters and who need, but are unable to afford, a lawyer and who cannot be served by GLSP staff lawyers due to limited resources. Private attorneys who volunteer for [INSERT OFFICE PRO BONO PROGRAM] will provide legal services to needy persons on a **Pro Bono** (free) basis, or, if volunteers are unavailable, for a minimal hourly or flat fee which is paid for by Georgia Legal Services Program under its "**We Pay You a Reduced Fee**" Program. Client-applicants who do

not qualify for free or reduced-fee services are referred to an attorney who practices in the counties served by this office of Georgia Legal Services, who [will provide a free initial consultation but] will charge a fee for representation. Under the **Lawyer Referral Program**, lawyers and clients decide on the terms of representation, including fees, without input from Georgia Legal Services. The [REGIONAL OFFICE OF GEORGIA LEGAL SERVICES] also brokers reduced fees for clients where the client is responsible for paying the reduced fee. We call this service "***Client Pays a Reduced Fee.***"

1.30 Funding

The expense of operating the [INSERT NAME OF PRO BONO PROGRAM] is paid for by Georgia Legal Services [and [[INSERT NAME OF LOCAL BAR ASSOCIATION].

1.40 Area Served

The [INSERT PRO BONO PROGRAM NAME] serves the [INSERT # OF COUNTIES] area served by the [INSERT REGIONAL OFFICE NAME] including the following counties: [INSERT LIST OF COUNTIES SERVED].

2.00 PARTICIPATING LAWYERS

2.10 Requirements

All attorneys participating in this project must meet the requirements listed in this section.

2.20 Sign Up

To participate in this program, all attorneys must complete an Enrollment Form (Form 14.10, below) and mail or fax it to:

Volunteer Coordinator
[INSERT OFFICE ADDRESS]
[INSERT TELEPHONE NUMBERS]
[INSERT FAX # AND/OR E-MAIL ADDRESS]

When completing the Enrollment Form, lawyers may elect to participate in one or more of the following: the ***Volunteer Program (preferred)***, [***We Pay You a Reduced Fee Program***], [***Client Pays You a Reduced Fee Program***] and the General Lawyer Referral Program. If you decide to participate in the general Lawyer Referral Program, you must note your preferences for case assignments– county and case type (See Sections 6.20 and 9.20).

2.30 State Bar of Georgia

All participating lawyers must currently be in good standing with the State Bar of Georgia.

2.40 Other Bar Associations

All participating lawyers are encouraged to be a member in good standing of their local bar association.

2.50 Malpractice Insurance

Attorneys participating in the General Referral Service component of this Project must maintain malpractice insurance in the minimum amount of \$25,000/\$75,000 to cover activities on behalf of clients referred under this Project. For lawyers who are not otherwise covered, the Project will provide [**upon request and acceptance**] malpractice insurance for each ***Pro Bono*** or ***We Pay You a Reduced Fee*** case you accept. NOTE: We do not provide malpractice or professional liability insurance for activity related to the general ***Lawyer Referral*** service or under the [***Client Pays a Reduced Fee***] Program. SEE Section 10.10 for important details on the professional liability insurance coverage.

2.60 Participation Agreement

All lawyers who participate in the [INSERT PRO BONO PROJECT NAME] will be asked to execute a contract (Form 14.10, below) with Georgia Legal Services Program. The contract requires the lawyer to:

- 1) Complete all forms;
- 2) Inform the GLSP office if the attorney believes there is a change in the income eligibility of the client;
- 3) Maintain malpractice insurance coverage;
- 4) File Affidavits of Poverty (in forma pauperis affidavits) where appropriate;
- 5) Respond to requests for information on anticipated billings (If handled as a ***We Pay You a Reduced Fee*** case) and for case status reports in cases of some duration; and
- 6) Refrain from collecting any money from the client, unless it is for court costs.

2.70 Reasons to End Participation in the Program

Your obligation to represent your GLSP client ends when you complete the work specified in the retainer agreement.

You may withdraw from the [INSERT PRO BONO PROJECT NAME OR SPECIFIC COMPONENT OF PROGRAM] at any time, consistent with your obligations to any client whom you have undertaken to represent. We ask that you notify the Managing Attorney of the [INSERT REGIONAL OFFICE NAME] of your reasons so that we can assist the client, where appropriate, in finding other legal representation. We will deny participation to the lawyer who is unprofessional or unethical in his/her conduct toward the client we refer, fails to keep appointments and scheduled hearing dates, or if he/she attempts to bill the client for fees other than court costs.

3.00 PERSONS ELIGIBLE FOR LEGAL ASSISTANCE

3.10 All Residents in the [INSERT REGIONAL OFFICE NAME] Service Area Are Eligible for Lawyer Referral

Any person currently residing in the area served by the [INSERT OFFICE NAME] Regional Office of Georgia Legal Services may apply for legal service through the [INSERT PRO BONO PROJECT NAME]. All persons needing a lawyer who cannot be served by our program will be referred to participating attorneys who have indicated a preference for the type of matter presented by the client-applicant, including criminal matters.

3.20 Persons Eligible for Volunteer Attorneys

Only those persons whose incomes meet the guidelines established by [INSERT REGIONAL OFFICE NAME] may be accepted as clients for pro bono and [We Pay You a Reduced Fee] attorneys who will not charge the client a fee. Client eligibility will be determined by Georgia Legal Services staff based on the same financial guidelines it uses for its clients. Financial eligibility determinations are based on the federal poverty income guidelines as required by the federal Legal Services Corporation [See 45 C.F.R. § 1611.5(a)].

. These guidelines are updated annually in March and posted at www.lsc.gov. Clients must remain financially eligible during the period of representation. Positive changes in income of a client we refer to you should be reported to us.

4.00 CASES HANDLED BY *Pro Bono* AND [We Pay You a Reduced Fee] ATTORNEYS

4.10 Civil Cases Only.

Only **civil** cases will be handled by volunteer and reduced fee lawyers. Acceptance of cases is limited to the number of attorneys available to accept cases and adequate funding.

4.20 Types of Cases

Types of cases to be handled by attorneys on a pro bono or reduced fee basis must fall into categories established by Georgia Legal Service Program, with input from local private attorneys. These criteria are set annually for the low-income residents in our service area. These kinds of cases may include, but are not limited to:

[INSERT YOUR OFFICE CURRENT CASE TYPES HANDLED HERE].

4.30 Cases Not Handled By Pro Bono or Reduced Fee Attorneys are Assigned through Referral Service

Volunteer and **“We Pay You a Reduced Fee”** lawyers will *not* be asked to handle matters involving criminal charges, traffic offenses (including DUI and driver's license suspensions), or cases which may generate a fee for an attorney. If a case does not meet the guidelines for a pro bono or reduced fee attorney, or if the client's income exceeds the federal poverty guidelines, the client will be referred under the general ***Lawyer Referral Program*** to a participating attorney who handles the type of matter for which legal help is needed who will require a fee for service.

4.40 Client Ineligibility After Assignment

If at any time a participating attorney believes that the referred client is ineligible for services, the attorney should inform the Georgia Legal Service office immediately. A staff person from Georgia Legal Services will then make a second eligibility determination. If the client is ineligible, the attorney will be contacted and requested to provide information whether harm would occur to the client if representation were to cease pending the employment of other retained counsel for the completion of the case. If no harm will come to the client by the termination of representation, then representation will be terminated by the method required by the forum, with copies to [INSERT GLSP Office Managing Attorney Name Here].

5.00 APPLICATION FOR LEGAL SERVICES

5.10 How A Person Applies for Legal Services

Any person may apply for service through the [INSERT OFFICE NAME]. The interested person should call the [VOLUNTEER COORDINATOR AND TELEPHONE #] or write [INSERT OFFICE NAME AND ADDRESS]. Interested persons can also speak with a legal worker from Georgia Legal Services Program in their county [INSERT INSTRUCTIONS HERE, EX. BY CALLING AND ARRANGING AN APPOINTMENT].

5.20 Federal Income Eligibility Guidelines

Client eligibility for the *Pro Bono* and *"We Pay You a Reduced Fee"* programs is governed by the Federal Poverty Income Guidelines. We review these guidelines annually. The Georgia Legal Services Program financial eligibility guidelines can be found in Section 15.40.

5.20 How Eligibility for *Pro Bono*, *"We Pay You a Reduced Fee"*, *"Client Pays You a Reduced Fee"* and Lawyer Referral is Determined

When the prospective client comes to the Legal Services Office or sees a legal worker in the county where she lives for an appointment, she is interviewed by an attorney or paralegal who determines if she qualifies for a *Pro Bono* or *"We Pay You a Reduced Fee"* attorney or for a *"Client Pays You a Reduced Fee"* lawyer or a general referral to a lawyer. The legal worker discusses the case with the applicant, gathers relevant facts and papers, and provides the applicant with non-legal resource information.

If the person is income eligible and the problem requires additional action, the case is presented to Georgia Legal Services Program staff at a case acceptance meeting which takes place weekly. At that meeting, a determination is made as to whether or not the case can be referred to a *Pro Bono* or *"We Pay You a Reduced Fee"* attorney. If the case is accepted for placement with a *Pro Bono* or *"We Pay You a Reduced Fee"* attorney, legal services staff prepare a Case Facts & Referral Memo which outlines the facts and legal issues involved to be shared with the attorney. GLSP maintains an open file on *Pro Bono* and *"We Pay You a Reduced Fee"* cases it places with lawyers and offers support to lawyers handling these types of cases. GLSP does not maintain an open case file for cases referred under *"Client Pays You a Reduced Fee"* nor for clients referred to you under our General Lawyer Referral Program. We do not offer case support or insurance coverage for *"Client Pays You a Reduced Fee"* and General Lawyer Referral cases.

6.00 CASE ASSIGNMENT TO PARTICIPATING ATTORNEYS

6.10 Roster of Attorneys

A roster of attorneys who have agreed to participate in the Program is maintained by the Volunteer Coordinator in the office of the [INSERT NAME] Regional Office of Georgia Legal Services Program. If, for lack of volunteers, the client is not assigned to a *Pro Bono* or *"We Pay You a Reduced Fee"* lawyer, she will be given as a general referral the names of three lawyers from the general *Lawyer Referral Program* who have indicated a preference for handling the type of matter concerned. When appropriate, specific clients will be assigned to attorneys with specific expertise to ensure quality service.

6.20 Referrals -- General Information

The participating attorney is under no obligation to take any case, but once he or she has agreed to represent a referred client, he or she must represent the client consistent with the Canons of Ethics and the laws of Georgia. Prior to making any referral, the Volunteer Coordinator will contact the participating attorney to check for any conflicts of interest.

6.30 Pro Bono Attorneys Have Preference

The Private Bar Coordinator refers the cases first to attorneys who have agreed to accept matters on a **Pro Bono** basis. If there is no **Pro Bono** attorney available, the client is referred to a **“We Pay You a Reduced Fee”** attorney. Attorneys who have agreed to accept pro bono cases are given preference for **“We Pay You a Reduced Fee”** cases. In either arrangement, the client is asked to contact the attorney to arrange an appointment. It is the client's responsibility to meet with the attorney.

6.40 Referrals -- Case Assignments

Cases are assigned to **Pro Bono**, **“We Pay You a Reduced Fee”** and general **Referral Program** attorneys to the next attorney in line for a referral who has agreed to accept cases of the type involved in the counties in which the attorney practices. If an attorney decides not to accept a referral, the case will be referred to the next attorney on the referral list.

7.00 **PAYMENT FOR LEGAL SERVICES– Pro Bono and “We Pay You a Reduced Fee”**

7.10 Records

Each participating attorney is required to keep separate time and expense records on each client referred by the Project for **Pro Bono** or **“We Pay You a Reduced Fee”** services. Because of the billing requirements of this Program, each participating attorney must keep records on each case sufficient to enable him or her to submit an itemized bill for services and expenses, which itemization must include dates, work performed on each date, and hours used on each respective date. Time expended on pro bono assignments is to be reported on the Attorney's Final Report: Pro Bono Referral (Form 14.20).

7.20 We Pay Some Costs of Pro Bono and “We Pay You a Reduced Fee” Cases

If you handle a case as a volunteer under the **Pro Bono** or **“We Pay You a Reduced Fee”** programs, we may be able to handle some reasonably unexpected or extraordinary costs associated with the pro bono case to ensure completion of the case. At the time of the referral or before you incur the expense or cost you must contact [Insert your Program Contact Info Here] to discuss possible payment of the cost or expense. Examples of

costs or expenses we may be able to pay on behalf of the client include: filing or service fees (in cases in which the local judge refuses to grant permission to proceed *in forma pauperis*); depositions; mileage for court appearances; and records copy requests. Section ***** contains the "Request for Prior Approval" form which you should fill out and fax to [Insert Your Local Program Contact Info Here]. Use this form to request payment of costs and expenses.

7.30 Statements/Bills and Fees

Attorneys participating in the **"We Pay You a Reduced Fee"** program are paid an hourly fee of \$[INSERT HOURLY RATE] [OR A FLAT FEE FOR {LIST CASE TYPES}], with some maximums set. At the time of referral, if the fee estimate exceeds ten (10) hours or (\$300.00), an estimated fee must be provided to us for our approval. Upon approval, you will be notified and expected to pursue the referred case within the terms of the estimate. If you believe the cost of the case will exceed the estimate, you must inform us in advance or risk responsibility for the excess costs. Where prior approval is not required, a final bill should be submitted upon completion of the cases.

Where the projected fee is in excess of \$300.00 or if you believe additional costs must be incurred, you must submit the Attorney's Estimated Cost of Representation (Form 14.30, below). When the completed Attorney's Estimated Cost of Representation is returned to the Volunteer Coordinator, she will review it with the Pro Bono Project Director. If the estimate falls within program guidelines, the Pro Bono Project Director will approve it and the Volunteer Coordinator will notify you. A letter of confirmation will also be sent. The prior approval process is very quick.

If the participating attorney did not originally submit an Attorney's Estimated Cost of Representation because less than ten hours of work was originally estimated, as soon as the attorney realizes that the actual work will exceed the original estimate, a Revised Attorney's Estimated Cost of Representation (Form 14.40, below) must be submitted to the volunteer coordinator.

Georgia Legal Services reserves the right to refuse payment for any services or costs billed but not devoted to client representation or assistance and to refuse payment for any unreasonably excessive services or costs.

Fees will be paid after a case is completed for actual work performed at the **"We Pay You a Reduced Fee"** hourly rate or as otherwise agreed. If a case is not completed because of loss of client contact, a fee will be paid only after the participating attorney has contacted the Volunteer Coordinator and has given her an opportunity to contact the client. Pending court action should not be dismissed until the Coordinator notifies the **"We Pay You a Reduced Fee"** attorney that efforts to contact the client have been completed.

When a case is concluded, an Attorney's Final Report and Billing (Form 14.70, below) must be submitted, along with any court orders obtained. As an aid to the Project, pleadings and research on Project cases may be solicited and may be made available to Project attorneys upon request.

Fees paid to **"We Pay You a Reduced Fee"** attorneys are not intended to cover all costs nor all billable time an attorney may render on the behalf of a client eligible under the guidelines. The **"We Pay You a Reduced Fee"** program is intended to reduce the burden of pro bono efforts on some members of the private bar and to encourage acceptance of cases that might not otherwise be accepted for representation. The **"We Pay You a Reduced Fee"** program may not be available in your area.

If you are handling the case on a pro bono basis, we will ask you to provide us with information on the number of hours you spend on a case so that we can calculate your contribution to our program. Information on time spent by volunteers also helps us determine when and how often we should call upon you.

7.40 Fees from Client, Third Parties and By Statute

As indicated in the GLSP Retainer Agreement (Form **), clients are responsible for costs associated with their case. Specifically, clients agree to:

1. Pay all costs related to the case, including filing fees, service of process expenses, copying charges and long-distance telephone charges;
2. Pay these costs in advance, if possible;
3. Pay the costs even if the case has been lost; and
4. Reimburse the attorney if he or she advances any costs or expenses in the case.

You may bill your client for out-of pocket expenses; many clients will not, however, be able to pay even nominal bills. In the event that you cannot collect expenses from the client, and you or your firm are unable to absorb them, you may seek reimbursement from GLSP. We can, if you are unable to cover certain costs, reimburse for postage, copying, long distance phone calls, and service of process. We may, upon request, reimburse you for mileage. We do not reimburse for secretarial or paralegal expenses.

When an attorney participating in this Project in **Pro Bono** or as a **"We Pay You a Reduced Fee"** attorney accepts a case from the Project, the attorney agrees to represent the client for no fee or for the fee received from the Project. The client will not be charged any fee for the representation. During the course of representation, if the participating attorney determines that there are potentially recoverable damages that would permit a contingent fee arrangement, the attorney may, with the consent of the client and the GLSP Managing Attorney,

remove the case from the Project referral status. If the case is removed, no fees will be paid to the lawyer by the Project.

An example of such case is: A referred case involves an action for a writ of possession of a mobile home. Prior to the hearing in the case, the creditor takes possession of the mobile home, arguably committing a breach of the peace in the process. In this situation, if the client decides to seek damages for wrongful repossession, the participating attorney may enter into a fee arrangement with the client with respect to the entire case. The damages issue cannot be handled on a fee basis while the contractual issue is retained as a Project referral.

Cases involving statutes or legal theories which include an award of attorneys fees as part of the remedy will not be referred by the Project as a **"We Pay You a Reduced Fee"** case. GLSP, and lawyers receiving hourly or set-fee payment from GLSP, may NOT seek attorney fees, and if awarded, you may not attempt collection of the attorney fees. You are, however, allowed to accept any attorney fees voluntarily delivered to you. If you are handling the case on a **Pro Bono** basis, you may seek attorney fees, but GLSP may not seek fees if in a co-counseling posture with you. You may, of course, contribute your attorney fees to GLSP as a tax-deductible gift.

7.50 Case Closure and Evaluation

At the conclusion of the representation by a **Pro Bono** or **"We Pay You a Reduced Fee"** attorney, the client will be sent a Client Satisfaction Form (Form 14.80, below) to complete indicating the client's satisfaction with the attorney and the Project.

7.60 Class Actions

No case referred by the Project on a **"We Pay You a Reduced Fee"** or on a **Pro Bono** basis may be litigated as a class action. We may use our **Pro Bono** program referral process to place a case with class action potential, but we will not monitor the case, provide any follow up or support of the class action, or pay any costs or expenses of a class action case. Georgia Legal Services Program is restricted from using funds, public or private, on class action litigation.

7.70 Appeals

No case referred on a **Pro Bono** or **"We Pay You a Reduced Fee"** basis by the Project may be appealed to a state or federal appellate court unless prior approval is obtained from the GLSP Managing Attorney. Approval will be determined in accordance with GLSP procedures for appeals. However, in the event an appeal is not approved, the participating attorney, with the consent of the client and the Managing Attorney, may pursue an appeal under such terms as are agreed upon between the attorney and the client. In this case, the Project will pay no fees or expenses in connection with the appeal.

.8 PAYMENT OF LITIGATION EXPENSES

8.10 Use of Pauper's Affidavit/Affidavit of Poverty

When a client who is eligible for a *Pro Bono* or “*We Pay You a Reduced Fee*” attorney is accepted by the Georgia Legal Services worker, a determination will be made by the worker as to whether the client should proceed *in forma pauperis* and use a Affidavit of Poverty (Section 17.20) as appropriate in lieu of payment of court costs. Georgia Legal Services may pay for court costs of clients referred to *Pro Bono* and “*We Pay You a Reduced Fee*” attorneys. These costs may include, but are not limited to, court filing fees, depositions, witness subpoenas, sheriff's service fees and other expenses related to the case.

8.20 What We Tell the Client about Fees and Costs

The intake worker will explain to the client that a *Pro Bono* attorney is donating the time or that a “*We Pay You a Reduced Fee*” attorney is accepting less than his/her usual fee from Georgia Legal Services to provide legal representation. Although the attorney will not charge the client for his or her time, there may be costs to effectively handle the cases. If the client can afford to pay these costs, they should be asked to do so. If the client cannot afford to pay the costs a Pauper's Affidavit should be filed. An Affidavit In Forma Pauperis is included in these materials and will be sent with every case we refer to a *Pro Bono* or “*We Pay You a Reduced Fee*” lawyer.

8.30 Discovery Expenses and Approval

As with legal practice generally, decisions on whether to take depositions or retain expert witnesses in cases referred by the Project will depend upon the anticipated impact of the proposed expenditure and its cost. Litigation expenses required for sound legal representation will be approved. Participating attorneys will be asked to estimate litigation expenses at the time of referral (Section 15.10). During the course of litigation, approval of litigation expenses may be requested (Section 15.11). Prior approval is required for Project payment of litigation expenses where the expenses will exceed \$100.00.

8.40 Depositions -- The Court Reporters Pro Bono Project

Where depositions are needed or desired, attorneys should contact the Volunteer Coordinator of the [INSERT OFFICE NAME] Regional Office to determine whether the services of a court reporter may be obtained through the Court Reporters Pro Bono Project. Under this project, court reporters will donate two hours of their services or fifty (50) pages of transcript at no charge. For more information, see the Court Reporters Pro Bono Project brochure in this manual (Section 17.0).

9.00 REFERRAL OF FEE-GENERATING CASES AND CLIENTS WHOSE INCOME EXCEEDS LIMITS

9.10 Under Limited Circumstances, We May Place Some Fee-Generating Cases on a Pro Bono Basis

It is the policy of the Georgia Legal Services Program to *refer* clients with fee-generating claims. Similarly, it is the policy of the Georgia Legal Services Program to refer clients whose household income exceeds the maximum allowable for the number of persons in that household.

Applicants who have possible fee-generating claims but whose claims may not be accepted by a lawyer unfamiliar with poverty law issues may be referred to a volunteer lawyer under the *Pro Bono* referral program and we may pay for some costs associated with the case with the expectation that we will be reimbursed for such costs if the client's interests are not harmed by the request. Clients with common fee-generating cases or who have income over the established income guidelines will be referred under the *Lawyer Referral* Program and will pay you for your services.

9.20 Preferences for Fee-Generating Referrals

Attorneys who participate in the *Lawyer Referral* Service will be given preference for fee-generating referrals where they:

1. Accept *Pro Bono* and/or "*We Pay You a Reduced Fee*" cases; or
2. Give a free initial consultation; or
3. Take cases on a contingent fee basis without requiring a retainer fee; or
4. Take cases on a reduced fee basis where the client is below the established poverty level and is responsible for the fee.

10.00 TRAINING AND SUPPORT

10.10 Professional Liability Coverage Only for *Pro Bono* and "*We Pay You a Reduced Fee*" Cases We Refer to You

We provide professional liability insurance coverage for attorneys in our *Pro Bono* and "*We Pay You a Reduced Fee*" (also known as *Judicare*) programs on cases you accept through these two programs. You will be automatically insured for professional liability on any case which you accept through the Pro Bono (volunteer) or Judicare ("We Pay You a Reduced Fee") programs operated by Georgia Legal Services Program. GLSP's malpractice coverage is now available to you on any

such case, so long as you comply with the terms set out below. Please read the information set out below, and direct any questions, in writing, to the Managing Attorney or Office Manager of the GLSP office which refers cases to you.

NOTE: We do **NOT** provide professional liability insurance coverage for cases referred under our general ***Lawyer Referral*** and our ***“Client Pays You a Reduced Fee”*** programs.

Terms of Professional Liability Coverage provided by GLSP on GLSP Cases Referred to You

The policy is a **Claims Made and Reported** rather than date of occurrence policy, issued through the Continental Insurance Company of New York. It covers claims reported *in writing* to The Company ... caused by any **Act** of the **Insured**, or any other person for whose **Acts** the **Insured** is legally responsible; and arising out of the rendering of or failure to render **Professional Services** by or on behalf of the **Insured** for clients of the **Named Insured** ...

By special rider, Georgia Legal Services Program has extended this coverage to all participating attorneys in its Pro Bono and "We Pay You a Reduced Fee" (Judicare) programs for cases handled through these programs. In other words, this coverage is not available to you on other cases you handle and it is not available for cases we simply refer under a general referral program nor for cases you accept in which the "Client Pays You a Reduced Fee."

This is secondary coverage. If you have other insurance, it must pay first. The limits of liability of this coverage for participating lawyers only on cases we refer through our Pro Bono and "We Pay You a Reduced Fee" (Judicare) programs is:

Each claim	\$1,000,000
Aggregate	\$1,000,000
Deductible (You Pay)...	\$1,000.

Claims Filing Procedures

If you receive a notice of a possible legal action, you **MUST** notify the manager of your local Georgia Legal Services Program office **and** the Director of Litigation of Georgia Legal Services Program, who will notify the carrier. Notice of possible legal action includes any notification that a legal action will be taken against you including a letter or telephone call, personal conversation, **or**

knowledge of a potential situation that may give rise to a claim. Notice of a possible legal action is not limited to a Summons and Complaint being received in your office. Failure to notify GLSP could result in coverage being denied. Should you be notified of a possible legal action as outlined above, you must notify the following by **CERTIFIED MAIL**: Ms. Lisa Krisher, Director of Litigation, Georgia Legal Services Program, 1100 Spring Street, Suite 200-A, Atlanta, GA 30309-2848.

If you have received a Summons and Complaint, forward a full and clear copy to Ms. Krisher. Any relevant information you feel may help Ms. Krisher in understanding the matter should also be included. If you receive a letter indicating possible legal action will be taken, photocopy the letter and mail same to Ms. Krisher by **CERTIFIED MAIL**. Copies of ALL information and claims provided Ms. Krisher will be sent by her to the carrier.

Please Note: Notice of Claim

The following are conditions of our professional liability insurance policy that you must note.

The **Named Insured**, as a condition precedent to the obligations of The Company under this Policy, shall give written notice to The Company as soon as practicable during the **Policy Period** or any **Extended Reporting Period** of any **Claims** made against any **Insured**.

If during the **Policy Period** or any **Extended Reporting Period** written notice of a **Claim** has been given to The Company pursuant to the immediately preceding paragraph, then any **Claim** which is subsequently made against the **Insured** and reported to The Company, arising out of, based upon, or attributable to the facts alleged in the **Claim** of which such notice has been given, or alleging any **Acts** which are the same as or related to the **Acts** alleged in the **Claim** of which such notice has been given, shall be considered made at the time such notice was given.

If during the **Policy Period** the **Insured** shall become aware of any **Acts** which may reasonably be expected to give rise to a **Claim** being made against the **Insured** and shall give written notice to The Company of such **Acts** and the reasons for anticipating a **Claim**, with full particulars as to dates and persons involved, then any **Claim** which is subsequently made against the **Insured** and reported to The Company alleging, arising out of, based upon or attributable to such **Acts**, or alleging any **Acts** which are the same as or related to such **Acts**, shall be considered first made at the time notice of such **Acts** was given to The Company.

10.20 Georgia Legal Services Staff Support

Georgia Legal Services Program will make available to all participating lawyers training, programming, literature, resources of its office and staff (including specialist attorneys, staff attorneys, paralegals, etc.). Particularly, assistance will be offered in regard to social services and administrative law. This support is intended to prepare lawyers to represent clients in types of cases not normally associated with the general practice and to encourage the willingness of the members of the local bar to accept such referrals.

GLSP staff and specialist attorneys may be called upon by participating attorneys to provide technical information, assistance, or resources, concerning matters assigned to the respective participating attorneys. At the discretion of the Managing Attorney or Director of Litigation, he/she may work with participating attorneys as co-counsel, or serve as back-up in cases where such aid is requested or deemed necessary. However, this is not meant to imply that a relationship of co- counsel of record need exist in all such cases.

Periodically, the Managing Attorney, Director of Litigation or Executive Director of Georgia Legal Services Program may schedule a review of specific cases with attorneys. Monitoring of case status and progression is required.

10.30 Continuing Legal Education

Attorneys who participate in the ***Pro Bono*** and ***“We Pay You a Reduced Fee”*** components of this Project will be offered continuing legal education free or at a reduced-cost to enable them to better represent clients referred through this Project. Attorneys who accept three or more cases under our ***Pro Bono*** referral program may receive an ICLE voucher worth \$100 for the prior calendar year activity. This ICLE voucher offer is not available to ***“We Pay You a Reduced Fee”***, ***“Client Pays You a Reduced Fee”*** or general ***Lawyer Referral*** programs.

10.40 National and State Support Centers and Internet Support

Participating attorneys may avail themselves of information compiled by national support centers to assist them in the representation of low-income clients. For a list of these support centers, see Section 17.0). Many of these support centers operate under a fee-for-service structure. Your local Georgia Legal Services Program Pro Bono Coordinator will have access to much of the information provided by these support centers, so you should consult with the Coordinator about obtaining specific case support information.

10.50 Statistical Data

To enable the Project to adjust its procedures to meet the requirements of the Legal Services Corporation and for periodic evaluation, there will be an ongoing effort to collect data from participating attorneys and clients relating to Project operations. Client confidentiality will be protected in this process.

9.60 Free Internet Support

GLSP cosponsors a website offering support, how-to manuals, sample pleadings, practice aids, news and message boards for communication with GLSP and other volunteers at www.legalaid-ga.org. There are several "practice areas" that you can join. Participating active ***Pro Bono*** and ***“We Pay You a Reduced Fee”*** lawyers may join the Georgia ProBono.net website (www.probono.net/ga) and download sample pleadings, case strategy materials, and other research aids. Other areas of ProBono.Net are available to support lawyers who participate in the ***Lawyer Referral*** and ***“Client Pays a Reduced Fee”*** programs. Click on "ADVOCATES" to join our free statewide volunteer support website.

11.00 EMERGENCY CASE ACCEPTANCE PROCEDURES AND ASSISTANCE

11.10 Emergency Case Acceptance Procedures

For legal problems with pressing deadlines that cannot be held over for regular GLSP case acceptance procedures, expedited representation will be arranged. Depending on the time constraints involved, the Managing Attorney, after conferring with other available staff, might take initial legal steps to protect the rights of the client. After this occurs, regular referral procedures will be followed.

In less critical situations, the interviewing attorney or paralegal, after conferring with the Managing Attorney, may make a direct telephone referral to the next attorney on the referral list. That attorney will be authorized to take some immediate action for an agreed fee or on a volunteer basis, with the Attorney's Estimated Cost of Representation for completion of the case and the referral memorandum being deferred.

11.20 Payment for Emergency Legal Assistance under the ***“We Pay You a Reduced Fee”*** Program

Participating attorneys requiring emergency assistance from Georgia Legal Services may telephone or e-mail the Volunteer Coordinator or Managing Attorney and receive verbal approval for expenditure of funds or time, but will be required to substantiate the emergency assistance with documentation follow-up.

12.00 CLIENT RESPONSIBILITIES

12.10 Clients Informed of Program Requirements and Responsibilities.

Clients are informed that participating attorneys make a commitment to them and that they have certain responsibilities to the attorney as set forth in Section 12.20.

12.20 Client Responsibilities

Clients are informed that their responsibilities to their attorneys are to:

1. Be on time for all appointments. If they are unable to make an appointment, they should call their attorney and inform her.
2. Bring all papers, forms and documents related to their case when coming for an appointment.
3. Notify their attorney immediately of any changes in their address or telephone number.
4. Be cooperative and totally honest with their attorney at all times.
5. Realize that their attorney is representing them either free or for less than her usual charge and that the attorney's time is valuable.
6. Be on time for all court hearing, trials and appearances.
7. Respond promptly to all telephone calls and letters from their attorneys. If the attorney concludes that she is no longer interested in pursuing the case, the attorney can withdraw as permissible.
8. Notify their attorney and the Georgia Legal Services Program if they decide not to pursue or continue their case.

12.30 How Clients Can Help the Project

Clients can assist the [Insert Your Program Name Here] in the following ways:

1. Remember that their attorneys are providing them with a valuable service and let their attorneys know that they recognize this and remember their responsibilities.
2. Fill out a Client Satisfaction Questionnaire and return it to GLSP.
3. Thank the lawyer who helped them.

13.00 WORKING WITH THE CLIENT

13.10 GSLP Client Expectations

At the time of referral, we tell GLSP clients that they must cooperate fully with their volunteer attorneys in order to continue to be eligible for free legal services. The GLSP retainer agreement provides that a client's failure to cooperate (and specifically, failure to stay in touch, provide information on changes in income or family situation) is grounds for the volunteer's withdrawal from the case. At the beginning of each case, we also instruct clients that they must be on time for appointments (or cancel appointments well in advance), return phone calls promptly, etc. We expect that clients will comply with these rules to the extent possible.

There are certain limitations on some of our clients' abilities to follow every rule. Be aware that you are the first attorney many of our clients have met. They may not have an accurate sense of the your business customs. In addition, it may be difficult for them to cooperate with you in the same ways your paying clients are able to. For example, GLSP clients will not have the knowledge or funds to get copies of pleadings at the Court Clerk's office; they may not have an answering machine to receive your messages; they may not know what has happened in their cases before you assumed work on the matter. Also, many of our clients are forced to rely on public transportation- if it is available- and will have difficulty in finding child care. Please make allowances for these issues, and be sensitive to the client's circumstances when making demands on them.

Notwithstanding the above, you are not required to represent a client who is constantly uncooperative. If your client repeatedly fails to return your calls, does not make appointments, does not provide you with information, etc., then you should talk to the client about the problem and follow up with a warning letter explaining specifically what the client must do to cooperate with you. If, after you have given the client a reasonable chance to reform, he or she still does not cooperate, you should write the client a closing letter stating that you will not be able to represent him or her any longer. You may, of course, have to take additional steps to comply with your professional obligations. The same strategy is true for clients who seem to have disappeared: send a letter to the last known address requiring that the client contact you within a certain period of time; if the client fails to contact you after the time has elapsed, send a closing letter. If you would like our advice, or would like us to help mediate a client problem, please call [INSERT NAME, ADDRESS AND TELEPHONE # HERE].

14.00 GRIEVANCE PROCEDURES

14.10 Client Grievance - Before Assignment

Clients whose cases are not accepted for a ***Pro Bono*** or ***“We Pay You a Reduced Fee”*** attorney referral by the Project will have the same rights to file grievances against the Project as are afforded to GLSP clients, and current GLSP grievance procedures will be followed. See Section for the grievance procedure instructions.

14.20 Client Grievances- After Assignment or Referral

Pro Bono and ***“We Pay You a Reduced Fee”*** clients have two ways to complain about services provided by their lawyer. After assignment of a ***Pro Bono*** or ***“We Pay You a Reduced Fee”*** case to a participating attorney, clients enter into an attorney-client relationship with the participating attorney. Those clients are entitled to those procedures relating to complaints against attorneys provided to the general public by the State Bar of Georgia. Clients may contact the State Bar of Georgia Consumer Assistance Program at (404) 527-8759 or 1-800-334-6865 or the State Bar of Georgia Office of the General Counsel at (404) 527-8700 or 1-800- 334-6865. Clients whose cases are accepted for a ***Pro Bono*** or ***“We Pay You a Reduced Fee”*** attorney referral by the Project also have the same rights to file grievances against the Project as are afforded to GLSP clients, and current GLSP grievance procedures will be followed. See Section 15.02 for the grievance procedure instructions.

Clients referred under the general ***Lawyer Referral*** and ***“Client Pays a Reduced Fee”*** programs and who have a complaint about the service provided by the lawyer who has agreed to handle their case should contact the State Bar of Georgia Consumer Assistance Program or State Bar of Georgia Office of the General Counsel at the numbers listed in the previous paragraph. If the client is dissatisfied with the manner of the referral process conducted by GLSP, then the client should contact the local GLSP Managing Attorney.

14.30 Participating Attorney Grievances

Participating attorneys dissatisfied with any aspect of the Project may direct their complaints to the GLSP Office Manager or Managing Attorney. There will be a review of the complaint and recommendations made to the GLSP Executive Director. The GLSP Executive Director, after conferring with the Office Manager or Managing Attorney, will make final decisions on all complaints presented to her. See Section 15.02 for the grievance procedure instructions.

14.40 Other Grievances

Complaints made by persons other than clients and participating attorneys will be handled initially by the Office Manager. The Office Manager will attempt to informally resolve the complaint. If no informal resolution is possible, the complaint will be referred to the GLSP Executive Director, depending upon the nature of the complaint.

15.00 FORMS and Program Materials

1. GLSP Financial Eligibility Guidelines

GEORGIA LEGAL SERVICES PROGRAM MEMORANDUM

TO: GEORGIA LEGAL SERVICES PROGRAM BOARD OF DIRECTORS
FROM: LISA J. KRISHER
DATE: March 29, 2002
RE: ANNUAL REVIEW OF INCOME GUIDELINES AND ASSET CEILINGS

Pursuant to Georgia Legal Services policy and 45 C.F.R. § 1611.5(a), the Board shall review annually the GLSP income guidelines in light of changes in the official Federal Poverty Income guidelines. LSC regulations at 45 C.F.R. § 1611.6 also require that the Board of Directors annually review our asset ceilings for client eligibility.

I. REVIEW OF MAXIMUM INCOME LEVELS

Georgia Legal Services Program has established 125% of the annual federal poverty income guidelines as the maximum annual income level for determining financial eligibility. The following language is directly from the federal regulations and GLSP policy.

45 C.F.R. § 1611.3 Maximum income level

- b** Every recipient shall establish a maximum annual income level for persons to be eligible to receive legal assistance under the Act [Legal Services Corporation Act].
- b** Unless specifically authorized by the Corporation, a recipient shall not establish a maximum annual income level that exceeds one hundred and twenty-five percent (125 percent) of the current official Federal Poverty Income Guidelines. The maximum annual income levels are set forth in Appendix A.
- b** Before establishing its maximum income level, a recipient shall consider relevant factors including:
 - (1) Cost-of-living in the locality;
 - (2) The number of clients who can be served by the resources of the recipient;
 - (3) The population who would be eligible at and below alternative income levels; and

(4) The availability and cost of legal services provided by the private bar in the area.

b Unless authorized by § 1611.4, no person whose income exceeds the maximum annual income level established by a recipient shall not be eligible for legal assistance under the Act.

b This part does not prohibit a recipient from providing legal assistance to a client whose annual income exceeds the maximum income level established here, if the assistance provided the client is supported by funding from a source other than the Corporation.

Below is the proposed new chart of Income Guidelines for GLSP as it would be incorporated in our policy.

710.30.30 Maximum Annual Income Level

Having considered the factors set forth in Section 1611.3 of the LSC regulations, GLSP sets the following maximum annual income level. The maximum annual income level shall be 125% of the Official Federal Poverty Income Guidelines. As the Official Federal Poverty Income Guidelines are changed, these levels will also change.

FAMILY SIZE	GLSP FINANCIAL ELIGIBILITY 2002 POVERTY INCOME GUIDELINES*		
	100% POVERTY YEARLY MONTHLY	125% POVERTY YEARLY MONTHLY	187.5% POVERTY YEARLY MONTHLY
1	8,860 738	11,075 923	16,661 1,384
2	11,940 995	14,925 1,244	22,388 1,866
3	15,020 1,252	18,775 1,565	28,163 2,347
4	18,100 1,508	22,625 1,885	33,938 2,828
5	21,180 1,765	26,475 2,206	39,713 3,309
6	24,260 2,022	30,325 2,527	45,488 3,791
7	27,340 2,278	34,175 2,848	51,263 4,272
8	30,420 2,535	38,025 3,169	57,038 4,753
For each	3,080 257	3,850 321	5,775

additional
family
member add

481

(*) Effective 2/25/2002
67 F.R. 6931 (Feb. 14, 2002)

In deciding whether to serve a client over the maximum annual income level, both (b)(1) and (b)(2) are used; in deciding not to serve a client under the maximum annual income level, both (b)(2) then (b)(1) factors are used; in deciding to serve a client under the maximum annual income level only (b)(2) factors are used.

II. REVIEW OF ASSETS CEILING

The GLSP asset ceilings have not changed in many years. Set out below is language taken directly from our eligibility guidelines.

710.30.20 Assets

1. Policy.

A. Where an individual has assets which exceed the ceilings set forth below, representation will not generally be afforded while the excess in assets exists.

- b *GLSP may accept the determination of another agency that the applicant meets an asset test for a Program that has lower limits such as food stamps, Temporary Assistance to Needy Families, or Supplemental Security Income. Staff may note the applicant's eligibility for the other Program rather than record the total of assets. (added June 2001).*

2. Waiver of Asset Ceiling

In unusual or extremely meritorious situations, the Director or designee may grant a waiver of this asset ceiling. When the Director or designee grants a waiver, the decision shall be documented and included in the client's file. Each office must maintain a record which does not identify any particular client and is consistent with the attorney-client privilege and requirements of the Code of Professional Responsibility, which permits a determination of the number of clients served because of a waiver and the factual basis for the decisions made.

A. Liquid assets ceiling (after subtracting exclusions set forth in Paragraph C below): Single individual \$5,000; each additional family member add \$1,500.

B. Non-liquid assets ceiling: By definition non-liquid assets are not readily available to meet the costs of legal representation prior to the time that representation is needed. If some portion of non-liquid assets might be made available to meet later costs of legal representation, then, at that time, they may be considered as liquid assets to determine whether legal

representation should continue. If equity in non-liquid assets, coupled with the overall income and financial position of the individual is sufficient for a commercial bank to issue a loan secured by the equity, then the amount of the loan proceeds shall be considered as liquid assets, subject to the same ceiling, less applicable interest and other loan costs.

C. Exclusions: None of the following shall be included as liquid or non-liquid assets.

- (1) Equity in an individual's principal residence.
- (2) An individual's first car.
- (3) Personal and household effects.
- (4) Trusts from household funds for education and medical expenses.
- (5) Value of farmland essential to employment or self-employment.
- (6) Work-related equipment essential to employment or self-employment.
- (7) Cash value of IRA or Keough Plans.
- (8) Assets excluded under Food Stamp, TANF (formerly AFDC) and SSI programs.

Set out below are relevant definitions from our eligibility policy, for your information.

710.30.10 Definitions

- b "Family unit" includes only those persons related by blood or by law as relatives for whom legal responsibility attaches.
 - b "Income" means actual current annual total cash receipts before taxes of all persons who are resident members of, and contribute to, the support of the family unit. However, income of persons not members of the family unit who reside with the family unit shall be counted only to the extent of that resident's actual cash contribution, unless the individual has direct power and authority over and the right to income of said other resident, or said other resident has the legal obligation to provide support for the individual seeking assistance.
3. "Available assets" under Section 710.30.20 are those to which the individual seeking assistance has direct and unfettered access, without having to obtain the consent or cooperation of another person over whom the individual does not have control, and who does not in fact consent or cooperate.

4. "Liquid assets" are those which can readily and promptly be converted to cash in the possession of the individual seeking legal assistance prior to the time that individual needs legal assistance, thus only the equity that is easily convertible to cash can be considered. Net liquid assets, after subtracting all expenses of conversion, including applicable taxes, are those to be considered.

5. "Non-liquid assets" are all assets other than liquid assets.

6. "(b)(1) factors" make reference to those factors listed in Section 1611.5(b)(1) of the Legal Services Corporation regulations to be used in all cases except when accepting representation of an applicant under the maximum income level:

A. Current income prospects, taking into account seasonal variations in income;

B. Medical expenses;

C. Fixed debts and obligations, including unpaid federal, state and local taxes from prior years;

D. Child care, transportation, and other expenses necessary for employment;

E. Expenses associated with age or physical infirmity of resident family members;

F. Other significant factors related to financial inability to afford legal assistance.

7. "(b)(2) factors" make reference to those factors listed in Section 1611.5(b)(2) of the Legal Services Corporation regulations to be used in all cases:

A. Current income prospects, taking into account seasonal variations in income;

B. The availability of private legal representation at a low cost with respect to the particular matter in which assistance is sought;

C. The consequences for the individual if legal assistance is denied;

D. The existence of assets, including both liquid and non-liquid, which are available by the applicant and are in excess of the asset ceiling set by the recipient pursuant to Section 1611.6;

E. Other significant factors related to financial inability to afford legal assistance, which may include evidence of a prior administrative or judicial determination that the person's lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment.

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15.02 GLSP Client Grievance Procedure

GEORGIA LEGAL SERVICES PROGRAM (GLSP) CLIENT GRIEVANCE PROCEDURE

If you are not happy with the legal services which your lawyer or paralegal at Georgia Legal Services Program (GLSP) gave you, you may make a complaint about it. You may use the procedure set out here. You may also complain to the Georgia Clients Council, your local clients council, or the State Bar of Georgia. The manager can tell you how to contact those groups.

Our process is as follows:

- b Write your complaint. We like to have your complaint in writing. If you need help, a GLSP staff person will help you write the complaint in your words. You may choose any member of the staff to help you. If you do not know which person to choose, the manager or the Executive Director will get someone to help you. The local Clients Council may be able to help you. Say what you don't like about the legal services you got and who you are complaining about.
- b What next? Give the written complaint to any GLSP staff person. The staff person must give it to the local manager and send it to the Executive Director.

Step 1: First, the manager of your local GLSP office will meet with you and try to resolve your problem. When you meet with the managing attorney or office manager, a friend or other person you choose may come with you and help you. We must decide about your complaint and tell you in ten (10) days.

Step 2: If you are still not happy, you may complain to the Executive Director. Give a written note to the local manager and he or she will send it to the Executive Director. The Director will talk with you and try to resolve the problem. He/she will let you know his/her decision within twenty (20) days.

Step 3: If you are still not happy, you may complain to the Client Grievance Committee of the GLSP Board of Directors. Let the Director know in writing that you want to do this. You can make a spoken or written statement to the Client Grievance Committee. You may bring a friend or other person to help you.

We will ask you to sign a Limited Waiver of Attorney-Client Privilege if you want to complain to the Client Grievance Committee. This says that we can tell the Committee the secret information you told us, to help them decide your case.

The Client Grievance Committee will make its decision in forty-five (45) days and they will notify you.

Rev. August 1999

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LIMITED WAIVER OF ATTORNEY-CLIENT PRIVILEGE

I, _____, in connection with my complaint to the Georgia Legal Services Program (GLSP) regarding

_____ hereby waive the confidentiality of any communications between me and representatives of the Georgia Legal Services Program. However, I do so only for the purpose of consideration, review and hearing of my complaint by the staff, and if necessary, by the grievance committee of the Board of Directors of the Georgia Legal Services Program. Furthermore, such waiver is only with the understanding that all disclosures during said consideration, review and hearing will be kept confidential by the persons in attendance.

DATED: _____ 20____.

Rev. August 2000

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15.03 Volunteer Pledge Form

V O L U N T E E R P L E D G E F O R M

Name & Bar # _____
_____ Telephone _____

Address _____

I am willing to provide my services in the following areas of law:

____ **FAMILY LAW**
____ Divorces --
Uncontested
____ Contested without a
child
____ Contested with child
____ Modification
____ Paternity
____ Battered
Spouses/Children
____ Adoptions
____ Guardianship of Minors

____ **INCOME MAINTENANCE**
____ Social Security ____
SSI ____ SSD
____ Unemployment

____ **WILLS/PROBATE MATTERS**

____ **HOUSING**

____ Landlord/Tenant
____ Dispossession

____ **CONSUMER FINANCE**
____ Bankruptcy
____ Collection Defense
____ Credit

____ **EDUCATION ISSUES**

____ **AGRICULTURAL**
EMPLOYMENT

____ **IMMIGRATION**

____ **OTHER** _____

Please indicate the counties in which you practice and wish to receive referrals:

, Number of cases I will accept on a pro bono (non-compensated) basis. ____ cases per year
, If judicare (see information below) is available in your area, would you be interested in learning more about it? ____ Yes ____ No
, I am willing to accept cases on a reduced fee or payment plan basis. ____ Yes ____ No

Do you speak any foreign language(s)? If so, please list: _

SIGNATURE

DATE

VOLUNTEER INFORMATION: Georgia lawyers may volunteer through the Pro Bono Project to represent those unable to afford representation in civil cases throughout 159 Georgia counties. In a few counties, they may also receive compensation under the "We Pay You a Reduced Fee" (Judicare) Program. Fees vary from \$25.00 to \$45.00 per hour, with some maximums set. Lawyers are also asked to volunteer on a strictly pro bono (free) basis. There is no charge for a lawyer to participate in this program and malpractice coverage is provided. The programs do not refer criminal cases. Most referrals are in the areas of family law, income maintenance, housing and consumer finance. Thank you for your pledge.
12/02

15.04 VOLUNTEER SIGN-UP THANK YOU AND FOLLOW-UP

ATTORNEY ADDRESS

RE: Your Opportunity to Become a Participating Attorney
in the [INSERT PROJECT NAME HERE]

Dear **SALUTATION**:

Thank you for your interest in becoming a [INSERT PROJECT NAME HERE] participant. Enclosed is a Sign-Up Form which you should complete and return to me so that we can begin referring clients to you. You should also complete and sign the enclosed W-9 Form if we will be referring compensated cases to you.

If you have malpractice insurance coverage, please provide the information requested. I am enclosing a pamphlet on our Professional Liability coverage in the event you do not have malpractice insurance. I am also enclosing pamphlets describing other services to participants.

The purpose of the [INSERT PROJECT NAME HERE] is to involve the Private Bar in the delivery of legal services to low-income people.

Georgia Legal Services welcomes your active participation in the [INSERT PROJECT NAME HERE]. Should you have any questions about the project either now or in the future, please feel free to contact me.

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s)

GEORGIA LEGAL SERVICES PROGRAM
VOLUNTEER AGREEMENT

Georgia Legal Services Program
(YOUR OFFICE) Regional Office
YOUR ADDRESS & PHONE

PARTICIPATION AGREEMENT

The undersigned attorney ("**Participating Attorney**") and the Georgia Legal Services Program, [YOUR OFFICE NAME HERE] Regional Office, ("**GLSP**"), agree to the following terms and conditions concerning the attorney's participation in the [INSERT YOUR PROGRAM NAME HERE]

1. **Description.** Recognizing that over [INSERT YOUR POVERTY POPULATION HERE] residents of [LIST YOUR SERVICE COUNTIES HERE] Counties in Georgia are low income and that many need, but are unable to find, legal representation, [Your Project NAME HERE] was instituted as a program by which residents of these counties seeking legal representation from GLSP are referred to participating private attorneys for representation.

2. **Acceptance of Referrals.** As a participating attorney in the [OFFICE NAME HERE] Regional Private Attorney Involvement Project, I will accept referrals from Georgia Legal Services Program. All referrals will be made from the Georgia Legal Services Office. I am under no obligation to take any case, but once I have agreed to represent a referred client, I will represent that client consistent with the Canons of Ethics and the Laws of the State of Georgia.

3. **State Bar of Georgia Membership.** I am a member of the State Bar of Georgia, admitted to practice in: 19____.

4. **Pro Bono Referrals.** I will accept Pro Bono case referrals, where no fee is paid by the client or Georgia Legal Services Program, for low-income clients who have meritorious legal cases but who cannot pay an attorney and would otherwise be unrepresented.

Yes _____ No _____

5. **Referral Program.** I will accept referrals of cases for a full fee or otherwise negotiated fee for persons who are above GLSP income eligibility guidelines and have an meritorious legal problem, or who are income-eligible but have a fee-generating case, or who have a meritorious case that is not within GLSP goals and priorities. I am not bound to accept these cases, and it is my responsibility to make fee arrangements with the referred clients.

Yes _____ No _____

6. **Case Acceptance.** I reserve the option to turn down cases with insufficient legal merit. I understand that GLSP will not refer more cases to me than I have agreed to accept.

7. **Relationships.**

- (a) Attorney/Client. By acceptance of referrals, I understand that an attorney-client relationship is created between the referred client and the undersigned attorney.
- (b) Georgia Legal Services and Participating Attorney. I understand that I will be accepting this Agreement as a private contractor and not as an agent or employee of GLSP. I hereby agree to complete all forms and documents required by GLSP and to participate in training, if needed.

8. **Changes and Modifications.** I understand that Georgia Legal Services retains the right to change the terms and conditions of this Agreement with thirty (30) days notice, but in such event, I can rescind this Agreement if I object to the change.

9. **Manual Terms Incorporated.** I have received a copy of the Manual for Participating Attorneys, and understand that the terms and conditions set forth in that Manual are incorporated herein by reference and I agree to be bound by those terms.

10. **Malpractice Insurance.** I currently maintain Attorney Malpractice Insurance in the minimum amount of \$25,000/\$75,000 to cover activities on behalf of clients referred under this Project or have otherwise made insurance arrangements acceptable to GLSP.

11. **Attorneys' Fees**

- (a) From Adverse Party. Please note that for all "We Pay You a Reduced Fee" (Judicare) cases, recovery of attorney fees is prohibited (45 C.F.R. Part 1642). You can no longer collect attorney fees from the adverse party in any Judicare cases that we refer to you. However, you may collect any sanctions imposed pursuant to court rules, such as discovery sanctions, and reimbursement of costs and expenses. You may accept any fees, other than those from a client, that are voluntarily delivered to you. The attorney fee prohibition does not apply to pro bono cases.
- (b) From Client. Under no circumstance, will I collect a fee from a pro bono or judicare client. The only fees I will collect from a client are those for referrals where a reduced fee was initially negotiated, or for a contingent fee case referral where I will represent client for a percentage of the amount to be recovered, or for a full fee referral for my usual and customary fee.

12. **Costs -- Affidavit of Indigence.** Court costs and other litigation expenses will be paid by the client or GLSP according to the guidelines set forth in the Manual for Participating Attorneys. For appropriate clients, I agree to use an Affidavit of Poverty.

13. **Verified Complaints and Documents Prepared.** A copy of verified complaints are needed for our files in order that our office will be in compliance with federal regulations. Therefore, we will ask that you supply us with a copy of the client's Complaint for Divorce, for example. In cases where it is an affirmative action, we will obtain from the client a Statement of Facts. When an attorney prepares wills and advance directives, a copy of these documents will need to be provided to the PAI Coordinator.

14. **Termination.** Georgia Legal Services has the right at any time to terminate the attorney's participation in the program by written notification. The participating attorney may terminate his/her participation in the program at any time by notifying Georgia Legal Services.

Agreed to on this _____ day of _____, 19____.

Participating Attorney

Social Security or Federal I.D.#

GLSP Private Attorney Involvement Coordinator

Managing Attorney

PLEASE RETURN TO [INSERT CONTACT INFORMATION
HERE]

THANK YOU!

**ATTORNEY
ADDRESS**

RE: Client: **CLTfullname**

Dear **SALUTATION**:

Thank you for agreeing to schedule **CLTfullname** an appointment to discuss **HIS/HER** legal problem regarding **DESCRIPTION OF LEGAL PROBLEM**. **MR/MS CLTlastname** will contact you to arrange an appointment. If you would prefer, you can contact **MR/MS CLTlastname** at **STREET ADDRESS OR P.O. BOX, CITY, STATE ZIP, PHONE#**.

Enclosed you will find an Attorney's Estimate of Cost and a Final Bill form. When you complete the case, send me the completed Final Bill form and some documentation of the result you obtain in this case, such as a final order.

We can only pay an attorney \$[INSERT hourly rate here] per hour for his/her services, with a fee limitation of \$300.00 for each case. Should you wish to be compensated more, you will need to obtain prior approval by completing the enclosed Attorney's Estimate of Cost form. We encourage you to use the enclosed Affidavit of Poverty when filing a case unless it would be inappropriate.

Enclosed is our Attorney Memorandum of Understanding. Please note that the Legal Services Corporation requires that attorneys execute a written Retainer Agreement with all GLSP clients represented on a compensated basis.

Should any unexpected problems arise in this case, please contact me. I would also appreciate it if you would let me know if **MR./MS. CLTlastname** does not contact you within two weeks or fails to follow through at a later date.

Sincerely yours,

PAI Coordinator (Non-Attorney)

Enclosure(s)

cc: **CLTfullname**

CLIENT ACCEPTANCE LETTER (Judicare/"We Pay You a
Reduced Fee")

**CLIENT
ADDRESS**

Dear **SALUTATION**:

Georgia Legal Services has agreed to provide you free help in your **TYPECASE**. However, your case will not be handled by a lawyer in this office. You will be helped by a private lawyer who will be paid by our [INSERT NAME OF PROJECT HERE]. You should be aware that you may have to pay court costs.

ATYfullname is a private lawyer who has agreed to talk with you about your case. Please call **MR/MS ATYlastname's** office soon to set a time to talk about this case. Take this letter with you when you go for your appointment. **MR/MS ATYlastname** may be contacted at:

ADDRESS

If you have questions or problems while **MR/MS ATYlastname** is handling your case, please contact **MR/MS ATYlastname** to try to take care of the problems. You may contact me if you are unable to work out the problem with **MR/MS ATYlastname**.

I am enclosing a brochure entitled [INSERT BROCHURE NAMES HERE] for your information. If you have any questions about this letter, please call me.

Sincerely yours,

PAI Coordinator (Non-Attorney)

Enclosure(s)

cc: **ATYfullname**

**ATTORNEY
ADDRESS**

Dear **Salutation**:

You have been asked, as part of your participation in our Private Attorney Involvement Project (PAI), to provide pro bono representation to **CLTfullname** regarding **HIS/HER DESCRIPTION OF LEGAL PROBLEM**. You have agreed to meet with **MR/MS CLTlastname** to discuss the case.

MR/MS CLTlastname has been asked to make an appointment with you. **MR/MS CLTlastname's** address and phone number are **STREET or P.O. BOX, CITY, STATE ZIP, PHONE#**. **MR/MS CLTlastname** was advised of the reason for meeting with you and that the consultation will result in no charge for your time.

MR/MS CLTlastname was also informed that while there will be no charge for your services, there may be other costs involved. If such costs will be excessive for **MR/MS CLTlastname**, you may request payment by the [Insert Name of Your Project Here]. Filing and service costs may be avoided by proceeding in forma pauperis, if it is applicable.

I have enclosed a report entitled "Attorney's Final Report: Pro Bono Referral" which I will appreciate your returning to me once you have completed your representation of **MR/MS CLTlastname**.

Thank you very much for your continued participation in our [Insert Name of Your Project Here],

Sincerely yours,

PAI Coordinator (Non-Attorney)

Enclosure(s)

cc: **CLTfullname**

15.9 LETTER TO CLIENT: ACCEPTED PRO BONO

**CLIENT
ADDRESS**

Dear **SALUTATION**:

You have come to the Georgia Legal Services Program seeking free legal help regarding **TYPECASE**. We have arranged for a private attorney to meet with you free of charge to consider giving you pro bono (FREE) legal help.

ATYfullname is the private lawyer who has agreed to talk with you about your case.

Please call **MR/MS ATYlastname** to schedule an appointment. **MR/MS**

ATYlastname's address and telephone number are:

ADDRESS

You will have no obligation to pay any money for the services of **MR/MS ATYlastname**, although it may be necessary for you to pay some court or other costs if applicable.

If you and **MR/MS ATYlastname** do not agree that **HE/SHE** will assist you at no cost, please let me know immediately. If **MR/MS ATYlastname** does agree to give you free legal representation, **HE/SHE** will be your lawyer rather than the Legal Services' casehandler with whom you discussed your problem.

I am enclosing a brochure entitled [INSERT BROCHURE NAMES HERE] for your information.

Please contact me if you have any questions about this letter or should any problem arise concerning your free representation by **MR/MS ATYlastname**. I will be happy to hear from you as to the outcome of this case.

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s)

cc: **ATYfullname**

15.10 ATTORNEY'S ESTIMATED COST OF REPRESENTATION

Attorney: _____ Fed. ID or _____ Soc. Sec. # _____
Client: _____ Date Interviewed: _____

ESTIMATE OF REQUIRED ACTIVITIES

<u>ACTIVITY (include date if known):</u>	<u>HOURS</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Attached additional sheets: ___yes ___no)

TOTAL ESTIMATED HOURS: _____
_____ Hours at \$30.00 = \$ _____ ESTIMATED FEES

ESTIMATE OF GLSP-REIMBURSABLE LITIGATION EXPENSES

<u>Expense</u>	<u>Cost</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Attached additional sheets: ___yes ___no)

TOTAL ESTIMATED LITIGATION EXPENSES: \$ _____
TOTAL ESTIMATED COST OF REPRESENTATION: \$ _____
I AM WILLING TO PROVIDE REPRESENTATION FOR : \$ _____

ATTORNEY SIGNATURE

DATE

Date received by GLSP _____ Submitted for approval _____
GLSP approval of fees by _____ on _____

15.11 APPROVAL OF ATTORNEY'S FEE ESTIMATE

**ATTORNEY
ADDRESS**

RE: Client **CLTfullname**

Dear **SALUTATION**:

Your fee estimate of **AMT OF FEE ESTIMATE** to represent Georgia Legal Services client **CLTfullname** has been approved. Once your services to **MR/MS CLTlastname** have been completed, I will need certain documents from you so that you can be reimbursed.

Please complete and return to me the PAI Final Report and Billing Form I sent to you with my referral letter. Feel free to return the form without the formality of a cover letter.

I would also appreciate you supplying to me copies of such documents which will give a reasonable reflection of the work done for **MR/MS CLTlastname** for our files.

If it appears that the cost of this case will exceed the amount now approved for payment, please contact me. I will also be happy to discuss any other problems which occur.

Thank you again for your participation in the [Insert Name of Your Project Here],

Sincerely,

PAI Coordinator (Non-Attorney)

15.12 APPROVE FEE INCREASE

**ATTORNEY
ADDRESS**

RE: Client **CLTfullname**

Dear **SALUTATION**:

Your fee for representation of Private Attorney Involvement Project client **CLTfullname** has been increased from **AMT INITIAL FEE** to **AMT OF FEE INCREASE**.

If I can provide you with any more assistance with this case, please let me know.

Sincerely,

PAI Coordinator (Non-Attorney)

15.13 REQUEST TO LAWYER FOR DOCUMENTS

**ATTORNEY
ADDRESS**

RE: Client **CLTfullname**

Dear **SALUTATION**:

This is confirmation of the telephone conversation I had with you on **DATE**, concerning the above-referenced case. At that time I requested that you send me documentation evidencing your work on this matter (i.e., **NAME OF DOCS**). I will need this information before I can submit your fee request for payment.

Thank you for your continued participation in the PAI Project.

If you have any questions, please do not hesitate to contact me.

Sincerely,

PAI Coordinator (Non-Attorney)

15.14 CASE STATUS INQUIRY to LAWYER

**ATTORNEY
ADDRESS**

RE: Client **CLTfullname**

Dear **SALUTATION**:

The person indicated above was referred to you by our office. From time to time we need to update our records as to the status of our referrals.

Please complete and return the enclosed Attorney Compensated Case Update Report by **DEADLINE DATE**. A return envelope is enclosed for your convenience. If you wish, you may use the blank area for any comments about this client or your experience with our [INSERT PROJECT NAME HERE], or for any suggestions for improvements in our referral system.

Additionally, if this case has been closed by your office, please complete the Attorney's Final Report and Billing form so that we can request payment for the services you have performed.

Thank you again for your assistance in helping us to meet the legal needs of the poor. Your cooperation is greatly appreciated.

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s)

15.15 Case Update Form

GEORGIA LEGAL SERVICES PROGRAM
PRIVATE ATTORNEY INVOLVEMENT PROJECT
CASE UPDATE REPORT

CLTfullname

_____ I am providing ongoing legal representation for this individual. I estimate that the legal problem involved will be completed by _____.

_____ I am no longer providing ongoing legal representation for this individual. The reason for ending my services is: (please check one)

_____ Client never made an appointment to meet with me.

_____ Provided advice and counsel only.

_____ Provided brief service beyond advice only.

_____ Referred to _____ after legal assessment of the problem.

_____ No legal merit.

_____ Client withdrew and did not return.

_____ Negotiated settlement without litigation.

_____ Negotiated settlement with litigation.

_____ Administrative agency decision.

_____ Court decision.

_____ Client no longer financially eligible.

_____ Other, please explain. _____

BILLING INFORMATION

_____ I am enclosing Attorney's Final Report (and Billing form for "We Pay You a Reduced Fee" Cases -- Please also attach copy of Order in case if one exists.)

_____ I am not enclosing Attorney's Final Report and Billing form. I prefer to be credited Pro Bono hours in this case.

Date

ATTORNEY SIGNATURE

15.16 CLIENT WITHDRAW/END PAYMENT to LAWYER

**CLIENT
ADDRESS**

Dear **SALUTATION**:

The [INSERT PROJECT NAME HERE] of the Georgia Legal Services Program had arranged to have you receive free legal assistance to be provided by **ATYfullname**, a private (not Georgia Legal Services') lawyer.

I now understand that you no longer wish to receive legal services in your case involving **TYPECASE**. Georgia Legal Services Program is therefore now withdrawing its approval of payment to **MR/MS ATYlastname** for this case.

Should you wish to receive free legal help in the future on this or any other matter, you will need to return to Georgia Legal Services Program since **MR/MS ATYlastname** has been advised that we will not pay for your representation.

There is a grievance procedure you may use to contest the fact that we will give you no further assistance on this case. It is outlined in the enclosed brochure.

If there has been any misunderstanding or if you have any questions about this letter, please call me.

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s)

**ATTORNEY
ADDRESS**

RE: Client **CLTfullname**

Dear **SALUTATION**:

Thank you for previously agreeing to represent Georgia Legal Services client **CLTfullname** for a reduced fee through our [INSERT PROJECT NAME HERE]. However, you have subsequently informed me that **MR/MS CLTlastname** failed to pursue this case.

I sent **MR/MS CLTlastname** a 10-day letter which gave **HIM/HER** a deadline to get in touch with me if **HE/SHE** still wanted to receive free legal services in this case. Since **MR/MS CLTlastname** did not contact me by the deadline, I am now preparing to close this case.

Enclosed please find an Attorney's Final Billing and Report form. Please complete this form and return it to me as soon as possible. I would also appreciate your supplying me with copies of such documents as will give a reasonable reflection of the work done for **MR/MS CLTlastname** for our files.

If **MR/MS CLTlastname** contacts you in the future concerning this case, Georgia Legal Services' approval will have to be given again before we can pay you to represent this client.

Thank you for your continued participation in the [INSERT PROJECT NAME HERE].

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s)

15.18 WITHDRAWAL OF OFFER TO PAY LAWYER

**ATTORNEY
ADDRESS**

RE: Client **CLTfullname**

Dear **SALUTATION**:

You had been contacted about representing Georgia Legal Services client **CLTfullname** for a reduced fee through our [Insert Name of Your Project Here],

It has now been agreed, however, that we will not pay you to represent this client because **REASON GLSP NOT PAYING FEE. MR/MS CLTlastname** has been notified that GLSP will not pay for you to represent **HIM/HER**.

Thank you very much for the time taken by you in dealing with this case. We are now closing **MR/MS CLTlastname's** case.

Sincerely,

PAI Coordinator (Non-Attorney)

15.19 LETTER TO LAWYER WITH FINAL PAYMENT

**ATTORNEY
ADDRESS**

RE: Client **CLTfullname**

Dear **SALUTATION**:

Enclosed is a check for **AMT OF CHECK** for your representation of client **CLTfullname**. It has been a pleasure working with you through our [INSERT PROJECT NAME HERE].

It may be some time until your name comes up again in rotational order to receive a PAI compensated case, since a number of attorneys are participating. However, we continue to refer non-compensated cases to our PAI panel attorneys.

If you ever have any questions or suggestions about [INSERT PROJECT NAME HERE], please call as I would be happy to talk with you.

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s): Check (**AMT OF CHECK**)

15.2010-DAY CLOSING LETTER TO CLIENT

**CLIENT
ADDRESS**

Dear **SALUTATION**:

We referred your **TYPECASE** case to **ATYfullname**, a private lawyer who would be paid by Georgia Legal Services Program through our [INSERT PROJECT NAME HERE].

OPTION 1 (re client failed to contact attorney)

You were informed to contact **MR/MS ATYlastname** to schedule an appointment. You have failed to contact **MR/MS ATYlastname**.

OPTION 2 (re client failed to contact attorney & return Referral Agreement)

You were also informed to contact **MR/MS ATYlastname** to schedule an appointment, and return to this office a Referral Agreement signed by you. You have still not contacted **MR/MS ATYlastname**, nor have you returned the Referral Agreement.

OPTION 3 (re client has not contacted attorney for some time)

You were also informed to contact **MR/MS ATYlastname** to schedule an appointment. **MR/MS ATYlastname** tells me that **HE/SHE** has not heard from you in quite some time and they are closing your file.

OPTION 4 (re adding your own language for this paragraph)

If I do not hear from you by **10-DAY DATE**, you will no longer be eligible to receive free legal help, and we will close your case.

Sincerely,

PAI Coordinator (Non-Attorney)

15.21 LETTER TO CLIENT CLOSING CASE

**CLIENT
ADDRESS**

Dear **SALUTATION**:

The [INSERT PROJECT NAME HERE] of the Georgia Legal Services Program had arranged to have you receive free legal assistance to be provided by **ATYfullname**, a private (not Georgia Legal Services') lawyer.

OPTION 1 (re attorney informed me "what" & GLSP gave clt deadline to respond)

MR/MS ATYlastname informed me that **REASON NO LONGER WANTS TO REPRESENT CIENT**.

I sent you a letter giving you a deadline to contact me if you still wanted to receive free legal services in this case. I have not heard from you. Since we have not heard from you, we are closing your case.

OPTION2 (re client no longer wishes to receive legal services)

I now understand that you no longer wish to receive legal services in your case involving **TYPECASE**. Georgia Legal Services Program is therefore closing your case file.

OPTION 3 (re adding your own reason for closing)

Should you wish to receive free legal help in the future on this or any other matter, you will need to contact us again and we will give your case reconsideration.

There is a grievance procedure you may use to contest the fact that we will give you no further assistance on this case. It is outlined in the enclosed brochure entitled [Insert Brochure Names Here].

If there has been any misunderstanding or if you have any questions about this letter, please call me.

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s)

15.22 REQUEST CLIENT FEEDBACK LETTER

**CLIENT
ADDRESS**

RE: Client Satisfaction Questionnaire

Dear **SALUTATION**:

Our office recently referred you to a participating attorney in the [INSERT PROJECT NAME HERE]. In order to improve the operations of the project and services provided through our office, it is important that we receive feedback from the clients we have assisted.

I hope you will take a few minutes to fill out the enclosed questionnaire and return it to the above address in the enclosed self-addressed, stamped envelope.

We would appreciate your comments in order to assist us in better serving you.

Sincerely,

PAI Coordinator (Non-Attorney)

Enclosure(s)

15.23 Client Satisfaction Form

[INSERT YOUR PROJECT NAME HERE]

C L I E N T S A T I S F A C T I O N F O R M

CLIENT'S NAME: _____

ATTORNEY'S NAME: _____

We are very interested in how you felt about the representation you received from the [INSERT YOUR PROJECT NAME HERE] in order to evaluate the quality of legal assistance of the attorneys. This form will be put in the lawyer's file and periodically reviewed.

ATTORNEY EVALUATION	YES	NO	SOMEWHAT
(1) Did you feel that the attorney on your case listened to your concerns?	_____	_____	_____
Did the attorney understand them?	_____	_____	_____
(2) Did you feel the attorney cared about handling your case?	_____	_____	_____
(3) Did the attorney fully explain the alternatives available in handling your case?	_____	_____	_____
(4) Was the attorney respectful and friendly?	_____	_____	_____
(5) Were you satisfied with the outcome of your case?	_____	_____	_____
(6) Did the attorney keep you informed of the progress of your case?	_____	_____	_____
(7) Did you ever telephone the attorney?	_____	_____	_____
Were your calls returned promptly?	_____	_____	_____
(8) Did you feel comfortable talking with the attorney?	_____	_____	_____
(9) If you need legal assistance in the future, would you seek the help of this attorney?	_____	_____	_____
(10) Would you seek help again from the [Insert Name of Your Project Here]?	_____	_____	_____
(11) Any other comments? _____			

PLEASE RETURN THIS TO: [INSERT CONTACT INFORMATION HERE]

15.24 ATTORNEY'S FINAL REPORT: PRO BONO REFERRAL

ATTORNEY'S FINAL REPORT: PRO BONO REFERRAL

Attorney: _____

Client: _____

Date work for client was completed:

Result of representation:

Total pre-approved costs: \$_____

(Please attach documentation)

Comments:

Total Hours: _____

ATTORNEY SIGNATURE

DATE

Please return to: [INSERT CONTACT INFORMATION HERE]

15.25 ATTORNEY'S FINAL REPORT: JUDICARE ("WE PAY YOU A REDUCED FEE")

ATTORNEY'S FINAL REPORT AND BILLING

Attorney: _____

Attorney SSN or Federal ID No.: _____

Client: _____

Fee Estimate Approved for: \$ _____

Date work for client was
completed: _____

Result of representation:

<u>ACTIVITY</u>	<u>TIME EXPENDED FOR CLIENT</u>	<u>DATE</u>
<u>HOURS</u>		
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____

(Attached additional sheets: ___yes ___no)

TOTAL HOURS: _____

_____ Hours at \$[insert hourly rate or flat fee] = \$ _____ ATTORNEY FEES

LITIGATION EXPENSES

<u>Expense</u>	<u>Date</u>	<u>Cost</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Attached additional sheets: ___yes ___no)

TOTAL LITIGATION EXPENSES: \$_____

TOTAL ACTUAL COST OF REPRESENTATION: \$_____

TOTAL REIMBURSEMENT REQUESTED: \$_____

ATTORNEY SIGNATURE

DATE

Date received by GLSP _____ Submitted for approval

GLSP approval of fees by _____ on _____

15.10 LSC RESTRICTIONS AND REQUIREMENTS:IMPACT ON PAI
PROGRAMS AND PRIVATE ATTORNEYS (MARCH 2000 UPDATE)**LSC RESTRICTIONS AND REQUIREMENTS:
IMPACT ON PAI PROGRAMS AND PRIVATE ATTORNEYS
MARCH 2000 UPDATE**

**Linda Perle and Alan Houseman
Center for Law & Social Policy**

In the fall of 1996, the ABA Center for Pro Bono published an article prepared by the Center for Law and Social Policy (CLASP) for the first issue of *Dialogue* that discussed the applicability of Legal Services Corporation (LSC) restrictions to private attorneys and private attorney involvement (PAI) programs. In March of 1998, CLASP prepared an update of the original article that addressed a number of new issues that had arisen. In the last two years a variety of new LSC issues have surfaced, and new interpretations have evolved or new aspects have emerged with respect to several of the issues addressed in the earlier articles. This article is intended to update your understanding of those issues¹ as they relate to private attorneys who provide legal assistance to LSC eligible clients and to bar associations, *pro bono* programs and other organizations that participate in LSC recipients' PAI programs.

Case Service Reporting System

One of the most confounding issues that has arisen during the last two years has been the intense new focus on the LSC Case Service Reporting (CSR) system. After being virtually ignored for almost 20 years, the CSR system and the data reported by LSC recipients has come under intense scrutiny by the LSC Office of Inspector General (OIG), the

¹We have not repeated the detailed discussions from the prior articles, although we have included brief reviews of some of the significant issues and discussions of material changes with regard to the issues that were addressed previously.

Congress, the General Accounting Office (GAO), the media and LSC's Office of Compliance and Enforcement (OCE).² Several aspects of the CSR issue relate to PAI programs and to private attorneys and affect the ways in which case information is recorded and PAI cases are reported for CSR purposes.³

One of the first issues that surfaced around CSR was the use of the case closure category "referred after legal assessment." Among other alleged misuses of that case closure category, LSC found that many recipients were "counting" PAI cases that were referred by the recipient to private attorneys or to *pro bono* programs as having been closed as "referrals after legal assessment" at the time they were referred out as PAI cases. PAI cases were categorized as referrals, rather than waiting to report until the cases were completed by the PAI program or private attorney and reporting them under the case closure categories that reflected the legal assistance provided on the case by those programs or attorneys. In addition, recipients were counting the referrals as cases, even when the client never actually received any legal assistance from the recipient or from the private attorney or *pro bono* program, generally when the client did not pursue the referral or did not appear for a scheduled appointment. Unless the *pro bono* program or private attorney actually provided advice, brief service or more extended legal

²The primary focus of this article is on how the CSR issue affects the operation of PAI programs and its impact on private attorneys who participate in those programs. We have not gone into detail regarding the overall genesis and evolution of the CSR issue in this article. Nor have we addressed all of the nuances of the issue that have arisen over the last two years. Numerous other documents have done so, and, if you are interested in receiving more detailed information, please contact us at CLASP and we would be happy to provide it to you.

³Beginning with the Year 1999 CSR reports that were due on March 1, 2000, recipients are required to report PAI cases separately from Basic Field cases. They are also permitted to report all cases, PAI or otherwise, that fit within the CSR definition of a case for an LSC eligible client, even if the case was fully supported with non-LSC funds. Recipients may refer cases for ineligible clients or for restricted cases or activities to private attorneys who participate in the PAI program, but they may not count such cases for PAI or CSR purposes, and LSC funds may not be used to support the representation.

assistance to the client as a result of the referral, there is no "case" for CSR purposes and the recipient may not include the referral in its CSR numbers reported to LSC.⁴

In addition, LSC found that many recipients were "counting" those same cases again when they were completed by the PAI programs or private attorneys, effectively reporting their PAI cases twice. We believe that most, if not all recipients have abandoned the practice of reporting PAI cases under the "referred after legal assessment" case closure category⁵ and counting PAI cases twice. Recipients should now be generally counting PAI cases as closed only when they are completed by the PAI program or private attorney, and reporting those cases under the case closure category that reflects the level of legal assistance actually provided to the client by the PAI program or private attorney. Recipients need to have information regarding the assistance actually provided in their files or accessible to them in order to report a PAI case for CSR purposes. Depending on the structure of their PAI programs, recipients should seek the information directly from the private attorneys, through case closure memos or other mechanisms, or from the *pro bono* program, bar association, lawyer referral service or other entity that actually makes the referrals to the private attorneys who undertake the representation.

A second facet of the CSR issue has been the alleged failure of recipients to close cases in a timely manner.

⁴On occasion, LSC recipients provide some advice or brief service to a client prior to the PAI referral. If the referral does not result in additional services being provided to the client by the *pro bono* program or private attorney, the case may be closed and counted for CSR purposes on the basis of the advice or brief service that was provided by the recipient, but it should be counted as a regular program case, rather than as a PAI case.

⁵In fact, LSC staff has told us that in a new CSR Handbook for the year 2000, LSC plans to eliminate the entire case closure category of "referred after legal assessment" along with several other case closure categories, in part because recipients had historically used these categories to count as cases referrals and other interactions with individuals where the recipients did not provide any legal assistance or where the individual was not an LSC eligible client. However, as of the completion of this article, LSC has not issued a new CSR Handbook or any other written guidance regarding the elimination of case closure categories.

Audits have shown that many cases have remained open in recipients' records, although there is no indication that any work has been done for many months and, in some instances, years.⁶ In some instances, these were advice and brief service cases where the work was completed within a few days, or sometimes a few minutes, of the client's intake.⁷ LSC found that this was a particular problem for PAI cases, where private attorneys had completed work on *pro bono* cases,⁸ but had not informed the recipient that the case should be closed. Recipients and PAI programs need to improve their systems for following up with private attorneys to ensure that completed PAI cases are reflected as closed in the recipient's case management systems as soon after case completion as possible.

An interrelated aspect of CSR that has a significant impact on the operation of PAI programs is the increased focus by LSC on documentation of reported cases. In order

⁶Both the OIG and the GAO auditors used an arbitrary "twelve month rule" to determine when an open case was not closed in a timely manner. Thus, if a case remained open for a period of twelve months beyond the last indication that work had been done, with no indication in the file of any additional work having been done on the case during that period, it was determined that it should have been closed and could not be counted as an open case for CSR purposes. However, there is no specific LSC regulatory or policy requirement that cases be closed within any particular time period, and there are numerous situations where no work would be done on a case, e.g., pending the receipt of information or the outcome of an appeal, but the case should remain open. Nevertheless, in many instances, cases in which work had ceased should have been closed administratively in the recipient's case management system but were not closed because of oversights or failures in the systems.

⁷As a matter of good practice, advice and brief service cases should be closed in the recipient's case management system as soon as possible after the service is complete. However, recipients actually have until the end of the calendar year, plus the period until the CSR reports are due (for 1999 cases, until March 1, 2000), to administratively close cases that should have been closed at any time during the year that is included in the CSR reports. Advice and brief service cases where legal work was completed during the reporting year but were not administratively closed until the beginning of the following year, should be assigned a closing date from the reporting year.

⁸The problem of untimely cases closure was not as significant for judicare or contract attorneys who are paid for specific cases because they had an incentive to close cases for which they were expecting to be paid. However, in some areas where judicare payments are relatively low, billing and case closure often lag far behind case completion.

to report a case to LSC for CSR purposes, with certain exceptions the recipient's file must contain: documentation of LSC financial eligibility (including both income and assets); written citizenship attestation or documentation of LSC eligible alien status; identification of the case handler; information about the nature of the assistance provided and support for the case closure code; information indicating the opening and closing dates; the retainer agreement (if required); and the client's name. All of this documentation is required for PAI cases as well as for cases handled by recipient staff, although until recently, LSC did not focus its attention on the documentation of PAI cases.

As a result of its heightened scrutiny, LSC has found that documentation for PAI cases is particularly problematic. When intake is done by the recipient prior to referral to a PAI program or private attorney, financial eligibility information is generally collected and kept in the recipient's files.⁹ However, other required documentation is often not collected by either the recipient, the PAI program or the private attorney, or is collected but not passed back to the recipient, and is not available to support the recipient's CSR case reporting. Citizenship attestations and retainer agreements have proven to be particular problems when cases are handled by private attorneys. Recipients may not have had in-person contact with the client prior to the referral and did not have a citizenship attestation or retainer agreement signed. The private attorney may not have been aware that the written document was required.¹⁰ In addition, recipients often have

⁹Financial eligibility documentation (i.e., income and assets) is not required for certain elderly clients and victims of domestic abuse when the assistance is funded under programs that do not permit means testing, including Titles III and IV and Title XX elderly programs and the Violence Against Women Act (VOWA).

¹⁰Written citizenship attestations are required for all cases except for advice or brief service cases where service is provided by telephone and there is no in-person contact between the recipient/case handler (including a private attorney) and the client. However, under current rules, a citizenship attestation is required for all cases when there is in-person contact between the client and the private attorney or *pro bono* program, even though intake and referral were handled over the telephone. Retainer agreements are not required for advice and brief service cases, regardless of whether they are handled by

no information on the actual services provided to clients once the referral has been made, information that is necessary for recipients to count the cases in their CSR statistics.

As a result of the lack of documentation, recipients have had to remove from their CSR statistics many, and in some cases most, of their PAI case referrals to subrecipients and private attorneys.¹¹ Recipients, *pro bono* programs and private attorneys participating in PAI programs need to develop systems to insure that all the necessary information and written documentation is collected and available to recipients to support CSR reporting of PAI cases. Information and documentation can be compiled by the recipient at the outset, prior to the referral and kept in the recipient's files, it can be compiled and kept by the PAI subrecipient, it can be compiled by the private attorney and forwarded to the recipient or subrecipient at the outset or at the completion of the representation, and/or can be made available to the recipient when needed for a self-inspection or audit of CSR data. The design of the system is up to the recipient and the PAI provider(s), as long as the documentation and information is available to the recipient to support its CSR submission.

CLASP has urged LSC to look at the burdens that the recent expanded emphasis on documentation requirements impose on recipients' PAI programs and on the private attorneys who participate. PAI programs have succeeded in

telephone or in person.

¹¹Recipients have been required to conduct self-inspections of samples of cases from those reported to LSC to ensure the accuracy of the CSR numbers. The 1999 self-inspection did require the case files or case management systems to include the documentation for cases included in the CSR submission. The OIG and LSC Office of Compliance and Enforcement (OCE) have conducted a number of audits of program's CSR data, and the OIG is in the process of conducting an Assessment of the accuracy of the 1999 CSR data. Both the Assessment and the audits require recipients to confirm for a sample of cases included within the CSR reports that the files contain the required documentation. Although the self-inspection for 1999 data did not require recipients to confirm that retainer agreements were in the files and the OIG Assessment is not looking for retainer agreements in sample cases, the CSR Handbook does provide that when the regulations require them, retainers must be in the file to count the cases for CSR purposes.

attracting significant numbers of private attorneys to provide legal services to eligible clients under the relative *laissez faire* attitude toward documentation that existed in prior years. However, it may be more difficult to recruit private attorneys who are willing to shoulder the additional burdens of recordkeeping that is now apparently required. Unless and until LSC determines that different documentation standards should be imposed for PAI cases, many recipients may find that their PAI programs either face less private bar participation, or exclusion of large numbers of PAI cases from their CSR reports. In either event the CSR data will fail to reflect the full contribution of private attorneys to the delivery of legal services to low-income clients.

Finally, a few words about reporting of PAI cases supported with non-LSC funds. As has been true in the past, recipients are permitted to use non-LSC funds to meet their PAI expenditure requirements. However, in the past, any cases that were funded entirely with non-LSC funds, including PAI cases, could not be counted for CSR purposes. Beginning with the 1999 CSR reports, which were due on March 1, 2000, recipients were required to include within their CSR reports all cases, including PAI cases, that are done on behalf of LSC-eligible clients, regardless of the source of the support for the cases, so long as the cases are fully documented, including citizenship attestations and information to show that legal assistance was provided and to support the case closure code. Note that recipients may not include within their CSR data any cases that are supported by non-LSC funds for clients who are not eligible for LSC funded services, either because they are financially ineligible¹² or because they are ineligible aliens, including

¹²LSC has created exceptions for clients whose legal assistance is supported by certain Federal programs for the elderly (Title III/IV of the Older Americans Act and Title XX of the Social Security Act) and victims of domestic abuse (Violence Against Women Act) which do not permit means testing to determine eligibility. LSC has decided to permit recipients to report all cases funded under these programs, regardless of the financial status of the clients, as long as the cases are otherwise reportable, e.g., file includes written citizenship attestation when required.

victims of domestic abuse.¹³ The 1999 CSR instructions required recipients to report PAI cases separately from basic field cases, rather than including them in the overall CSR numbers as was required in the past.

Program Integrity Standards

Part 1610 of the LSC regulations imposes a set of "program integrity" standards¹⁴ on the relationships between LSC recipients and those non-LSC funded organizations¹⁵ that are engaged in restricted activities. Restricted activities are those that a recipient would not be permitted to engage in directly because of the LSC Act or appropriations act provisions, such as class actions, legislative or administrative advocacy, welfare reform, claiming attorneys' fees. The program integrity standards consist of three basic requirements. First, the recipient and the other organization must be legally separate entities, although they may have the same or overlapping boards. Generally, this means that they must be separately incorporated. Second, the other entity must receive no transfers of LSC funds¹⁶ and LSC funds must not subsidize restricted activities, and third, the LSC recipient must be

¹³The Kennedy Amendment to the LSC appropriations act permits recipients to use non-LSC funds to serve certain otherwise ineligible aliens who are victims of domestic abuse, although the services may not be counted as cases for CSR purposes.

¹⁴45 CFR §1610.8

¹⁵The rule does not define "organization" for purposes of applying the program integrity standards. It is reasonable to assume that a private attorney in solo practice would not be considered to be "an organization," but it is not as clear that a law firm would not be. A bar association or *pro bono* program clearly would be considered to be an organization. If the bar association or *pro bono* program engaged in lobbying or other restricted work, the program integrity rules would be applicable if it had a relationship with an LSC recipient, under a PAI program or otherwise.

¹⁶The rule defines "transfer" as "...a payment of LSC funds by a recipient to a person or entity for the purpose of conducting programmatic activities that are normally conducted by the recipient such as representation of eligible clients or that provide direct support to the recipient's legal assistance activities. *Transfer* does not include any payment of LSC funds to vendors, accountants, or other providers of goods and services made by the recipient in the normal course of business."

"...physically and financially separate from the other organization. Mere bookkeeping separation of LSC funds from other funds is not sufficient." If the recipient and the other organization meet the program integrity standards, then the other organization's restricted activities are not be attributed to the recipient. However, if the program integrity standards are not met, then the LSC recipient would be deemed to be in violation of the prohibitions because of the other organization's restricted work.

The explicit language of these standards applies to the relationship between recipients and any other entity, including a bar association, *pro bono* program, private attorney or law firm that is part of the recipient's PAI program, as well as other entities that receive transfers of non-LSC funds from a recipient or are otherwise related to the recipient. Nevertheless, *pro bono* programs, bar associations, law firms, private attorneys or other entities that receive LSC funds for the sole purpose of funding PAI activities are treated differently from other entities for purposes of Part 1610, including the program integrity standards. In general, when a recipient transfers LSC funds to another person or entity, the LSC restrictions apply to both the LSC funds transferred and to the non-LSC funds of the person or entity to whom the LSC funds are transferred, and organizations will not be viewed to have the "objective integrity and independence" that is required to meet the program integrity standards. However, when LSC funds are transferred to a bar association, *pro bono* program, private attorney or law firm or other entity for the sole purpose of funding PAI activities, the restrictions apply only to the funds transferred, and not to the other non-LSC funds of the transferee.¹⁷ The effect of this exception is to eliminate the application of the program integrity standards provision on transfers of LSC funds to such PAI transfers to bar associations, *pro bono* programs, private attorneys or law firms, or other PAI entities. Thus, the fact that LSC funds are transferred to a PAI entity or private attorney does not, by itself, constitute a violation of the program integrity standards.

¹⁷45 CFR §1610.7(c)

The rule looks to several other factors to determine whether the recipient and the organization that engages in restricted activity have sufficient physical and financial separation to meet the program integrity standards. Those factors do apply to private attorneys and PAI entities. The factors include, but are not limited to: (1) the existence of separate personnel, (2) the existence of separate accounting and timekeeping records, (3) the degree of separation from facilities in which restricted activities occur and the extent of such restricted activities, and (4) the extent to which signs and other forms of identification which distinguish the recipient from the organization are present.¹⁸ The commentary to the regulation states that LSC will determine whether the physical and financial separation standard is met using a case-by-case approach, based on the totality of the circumstances, with no one factor being determinative. Each year, the governing bodies of all LSC recipients are required to certify to LSC that the recipients meet the program integrity standards of Part 1610.

Although LSC did not previously pay close attention to compliance with the program integrity standards, that is likely to change over the coming months. The OIG has raised program integrity concerns as adjuncts to two audits of recipient client trust accounts and has referred their concerns to OCE for follow-up investigation. In response to a complaint, the OIG has also begun an inquiry into program integrity issues for all programs in one state. After completion of its assessment of 1999 CSR data, the OIG had announced that it plans to begin a series of special audits on program integrity which could lead to a general heightening of attention to the issue. Although are not aware of any special focus by the OIG on the relationship between recipients and bar associations or *pro bono* programs, nevertheless, LSC funded legal services programs and their PAI partners need to be aware of the program integrity standards and mindful of the concerns that they raise.

¹⁸These four factors are derived from the HHS regulations that were found to be constitutional under *Rust v. Sullivan*, 500 U.S. 173 (1991).

Subgrant Rule

In addition to the rules regarding program integrity and the applicability of LSC restrictions, LSC has rules regarding subgrant agreements and subrecipients that may apply to *pro bono* programs and PAI attorneys. Under Part 1627 of the LSC regulations, subgrants of LSC funds are subject to prior written approval by LSC. Not all transfers of LSC funds for PAI purposes are subgrants, but many are.¹⁹ A subgrant is a transfer of LSC funds to a subrecipient. A subrecipient is-

...any entity that accepts Corporation funds from a recipient under a grant[,] contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. Such activities would normally include those that might otherwise be expected to be conducted directly by the recipient itself, such as representation of eligible clients....Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000 shall be included....[Contracts for goods and services in the normal course of business are not subgrants.]

Thus, a transfer of LSC funds to a bar association or *pro bono* program to run a PAI program would be a subgrant. A payment of LSC funds at an hourly rate or set fee to an individual *judicare* attorney for a case undertaken on behalf of a client referred to the attorney would generally not be a subgrant, as long as the annual amount of the payment is less than \$25,000.²⁰ LSC funds paid to a private attorney

¹⁹Agreements between a recipient and another entity for work that is paid for entirely out of non-LSC funds are not subgrants, are not subject to LSC approval and are not subject to the rules regarding subgrants.

²⁰Any *judicare* attorney who receives more than \$25,000 in LSC funds in a single year, is subject to the subgrant rule. Before making such a payment, the recipient should have received approval from LSC, and the payment would be

under a contract to handle numerous cases or a large case might or might not be a subgrant, depending on the amount of the payments made under the contract during one year.

Aside from the requirement for LSC approval of the subgrant agreement, Part 1627 limits subgrant to one year and requires that funds remaining at the end of the year be included in the recipient's fund balance. Recipients are responsible for ensuring that subrecipients comply with the financial and compliance audit requirements applicable to LSC funded programs, and subgrants are subject to the same oversight by LSC and the OIG as grants to recipients. If expenditures by subrecipients are disallowed under the LSC regulations on cost standards,²¹ the recipients are responsible for repaying the disallowed costs to the Corporation, regardless of whether or not they are able to recover the expenditures from the subrecipients. Subgrant agreements are required to follow a prescribed LSC form. As discussed above, LSC restrictions apply only to the LSC funds that are transferred under PAI subgrants, and not to the other funds of the subgrantee, unless the entity is also a subgrantee for purposes other than PAI, in which case, all of the entity's funds are restricted.

Attorneys' Fees Restriction

As part of the 1996 appropriations process, Congress prohibited LSC recipients from claiming or collecting and retaining attorneys' fees. Under the final version of Part 1642 of the Corporation's regulations (45 CFR §1642), the restriction was expanded to apply to fees in Social Security cases as well as those awarded under fee-shifting statutes and common law practices. The regulation explicitly applied the prohibition to "any case undertaken by a private attorney on behalf of an eligible client when the attorney receives compensation from a recipient to provide legal assistance to such client under the recipient's private attorney involvement (PAI) program, judicare program, contract or other financial arrangement." The text of the

subject to the audit and other requirements of Part 1627.

²¹45 CFR 1630.

rule does not address the applicability of the restriction to private attorneys who provide *pro bono* services to eligible clients, but the preamble to the rule does so explicitly:

The prohibition does not include *pro bono* attorneys who receive no compensation from a recipient to handle cases, because they are not receiving financial assistance from the recipient to provide the services. Thus, attorneys who are handling cases on behalf of eligible clients on a *pro bono* bases (sic) may seek and collect attorneys' fees. It is the Corporation's judgment that the restrictions of this part would be a substantial impediment to the recruitment of *pro bono* lawyers.

Thus, private attorneys who handle cases for eligible clients on a *pro bono* basis and are not paid any compensation²² by a recipient or subrecipient may seek attorneys' fees in those cases.

Attorneys who co-counsel cases with recipients on a *pro bono* basis may seek attorneys' fees for the time that the private attorneys spend on the cases. They may not ask for attorneys' fees for the time spend by the recipient. A common question is whether private attorneys who receive attorneys' fees for PAI cases where they co-counsel with a recipient may donate those fees to the recipient. There is no prohibition on the donation of attorneys' fees to an LSC recipient. However, there should never be any formal written agreement between the attorney and the recipient that the donation will come from the private attorney's fees in the case, since LSC could view such an agreement as an

²²"Compensation" does not include payments to cover out-of-pocket expenses. Thus, if a recipient or PAI program refers cases to private attorneys who agree to provide their time on a *pro bono* basis, but the program reimburses the attorney for travel expenses, expert witness fees, postage, copying, etc., those attorneys are not considered to be "compensated" for purposes of Part 1642.

indirect effort by the recipient to seek, claim or collect attorneys' fees in a case in which they are participating.²³

Questions have been raised regarding the general applicability of the attorneys' fee restriction to attorneys who receive funds directly from a recipient to handle cases under a contract or other financial arrangement. There is no one simple answer. If the funds are LSC funds and the payment is part of the recipient's PAI program, the attorneys may not seek fees for any case supported by those funds, but the restriction does not apply to the attorney's non-LSC funded cases. If the funds are LSC funds, but the transfer²⁴ is not part of the PAI program, all of the attorney's cases are subject to the appropriations act restrictions and no attorneys' fees may be sought by the private attorney anywhere in his or her practice, whether the cases are LSC-funded or not. If the private attorney works for an "organization that engages in restricted activities," any restricted activities that the organization does engage in, including seeking attorneys' fees, will be attributed to the recipient under the program integrity standards of Part 1610 of the LSC regulations. Thus, we do not recommend any transfer of LSC funds to private attorneys outside of a PAI program context. However, a recipient may refer a case where attorneys' fees are likely to be

²³On August 7, 1997, LSC issued a program letter (97-1) to all LSC program directors that provided interpretive guidance concerning the attorneys' fee restriction. The letter addressed several issues relating to private attorneys who co-counsel with recipients' attorneys on cases. It stated that a private attorney co-counsel who is compensated by a recipient is not permitted to seek attorneys' fees, but a private attorney who co-counsels on a *pro bono* basis is not covered by the restriction, and may seek fees for the work that s/he does on case. The letter also stated that an LSC recipient may not assign its attorneys' fees to private co-counsel, and private co-counsel may not seek attorneys' fees for any work done by an attorney for a recipient.

²⁴Section 1610.2 of the LSC regulations define "transfer" as "...a payment of LSC funds by a recipient to a person or entity for the purpose of conducting programmatic activities that are normally conducted by the recipient, such as the representation of eligible clients, or that provide direct support to the recipient's legal assistance activities. *Transfer* does not include any payment of LSC funds to vendors, accountants or other providers of goods and services made by the recipient in the normal course of business." Purchases of goods and services such as manuals or training do not constitute "transfers" and would not trigger the restrictions.

available to a private attorney who is paid by the recipient to do other cases as part of a PAI program. As long as the recipient does not pay LSC funds to the private attorney for that case and does not count the case for PAI purposes, the private attorney may seek attorneys' fees for that specific case.

The situation is different if a recipient uses non-LSC funds to pay a private attorney to do work on a case or cases. Part 1610 of the LSC regulations permits recipients to transfer non-LSC funds to outside persons or entities for any purpose without subjecting those funds or any other funds of the transferee to the LSC restrictions, including the attorneys' fee prohibition.²⁵ Thus, recipients may use non-LSC funds to compensate a private attorney for work on a case and the private attorney may still seek attorneys' fees in that case. However, in order for the recipient to count the expenditure of non-LSC funds as a PAI expenditure, the compensated private attorney may not seek attorneys' fees in those cases supported by the non-LSC funds.

Timekeeping

The timekeeping requirements of Part 1635 of the LSC regulations apply to "all of the efforts of the attorneys and paralegals for which compensation is paid." Although the requirements are written in the context of action by the recipient, they apply to any use of funds for any "case" which is "a form of program service in which an attorney or paralegal of a recipient provides legal services to one or more specific clients...." Section 1610.7(b)(2) of the LSC regulations specifically states that "...persons or entities receiving a transfer of LSC funds are required to maintain records of time spent on each case or matter undertaken with the funds transferred." Thus, private attorneys and

²⁵The text of the rule itself only addresses the applicability of restrictions to transfers of LSC funds. However, the preamble to the final rule makes the point, in a rather indirect manner, that since the final rule deleted the provision applying LSC restrictions to non-LSC funds that are transferred by a recipient and there is no statutory provision requiring that a transfer of non-LSC funds be subject to LSC restrictions, then non-LSC funds transferred to another attorney or entity by a recipient are not subject to the LSC restrictions, as long as the program integrity standards, discussed below, are met.

subrecipients who receive LSC funds as compensation from an LSC recipient to handle cases or matters for eligible clients as part of a PAI program are required to keep time records for those cases or matters, but *pro bono* attorneys, who receive no compensation from the recipient for their work on cases for eligible clients, are not.²⁶ The preamble accompanying Part 1635 makes it clear that, although compensated PAI attorneys or subgrantees are required to keep time records, they are not required to keep time in strict accordance with the provisions of Part 1635, but may use whatever timekeeping system is appropriate for their specific operations.

Solicitation

Under Part 1638 of the LSC regulations (Restrictions on Solicitation), recipients and their employees are prohibited from representing a client as a result of unsolicited advice and are prohibited from referring to other recipients those individuals to whom they have given unsolicited advice. However, nothing in the rule prohibits a recipient from referring such a client to a private attorney, or from taking a case for such a client referred by a private attorney to the recipient. Neither the rule nor the CSR Handbook address whether such cases referred to PAI attorneys may be counted as PAI cases for CSR purposes. Arguably, since CSR cases must be cases that the recipient could otherwise undertake directly, it would not be appropriate to count those cases for CSR, although the recipient's PAI referral mechanism may be used to make the referral and expenses incurred in making the referral may be included the recipient's PAI allocation.

Fee-Generating Case Referrals

Part 1609 of the LSC regulations (Fee-generating cases) set out circumstances under which LSC recipients are

²⁶"Compensation" does not include payments to cover out-of-pocket expenses. Thus, if a recipient or a PAI program refers cases to private attorneys who agree to provide their time on a *pro bono basis*, but the program reimburses the attorneys for their out-of-pocket expense, e.g., travel expenses, expert witness fees, postage or copying, those attorneys are not considered to be "compensated" for purposes of these regulations.

permitted to undertake representation on fee-generating cases. The general assumption of the rule is that, subject to numerous exceptions, recipients should refer to private attorneys those cases where an attorneys' fee is reasonably expected to be awarded to the client from public funds or from the opposing party. Recipients may refer such cases to private attorneys, whether or not they participate in PAI programs.

Neither the rule nor the CSR Handbook address whether fee-generating cases referred to PAI attorneys may be counted as PAI cases for CSR purposes. Arguably, since CSR cases must be cases that the recipient could otherwise undertake directly, it would not be appropriate to count those cases for CSR. However, since recipients may count as PAI expenses work that they do on cases in which they co-counsel with private attorneys and recipients are permitted to co-counsel in fee-generating cases, although they cannot claim attorneys' fees for their work, co-counseled cases may be counted for CSR purposes. Clearly, the recipient's PAI referral mechanism may be used to make the referral, and expenses incurred in making the referral may be included the recipient's PAI allocation

Applicability of the Burton Amendment Case Disclosure Requirements

The FY 1998 appropriation for LSC included a new requirement, known as the Burton Amendment, providing for the public disclosure of information on cases filed by recipients' attorneys and for reporting that information to the Corporation in semiannual reports.²⁷ The Burton Amendment, which has been carried over into each subsequent LSC appropriation, required LSC to implement a system of case information disclosure by January 1, 1998. The final version of Part 1644 of the LSC regulations contained

²⁷The Burton Amendment requires the following information to be disclosed to the public upon request and to LSC in semi-annual reports: the name and full address of each party (subject to certain exceptions), the cause of action, the name and address of the court where the case was filed, and the case number assigned to the action. By its terms, the Burton Amendment applies only to LSC-funded basic field programs.

procedures that recipients were required to follow to meet the requirements of the Burton Amendment.

Under Part 1644 all recipients and subrecipients²⁸ that "...receive LSC funds for direct representation of eligible clients..." must follow the disclosure requirements "except for subgrants for private attorney involvement activities pursuant to part 1614...." In addition, the regulation explicitly exempts PAI cases filed by private attorneys from the disclosure requirement, stating that "this part does not apply to any cases filed by private attorneys as part of a recipient's private attorney involvement activities pursuant to part 1614...." Thus, the rule makes clear that the disclosure requirements do not apply to cases that are filed by PAI subrecipients or by private attorneys under a recipient's PAI program.

Client Identity and Statement of Facts

Part 1636 (Client Identity and Statement of Facts) contains provisions that also apply the requirements of the rules to private attorneys who receive compensation from the recipient to provide legal assistance to eligible clients under a *judicare* or other financial arrangement. However, the commentary to the regulation makes it clear that when private attorneys provide legal services to eligible clients on a *pro bono* basis, the attorneys are not subject to the client identification or statement of facts requirements of Part 1636. The cases they undertake may still be "counted" as cases for CSR purposes, and recipients may still provide substantive support, training and oversight²⁹ to the *pro bono* attorneys, even if they do not identify their clients or prepare statements of fact.

Other Regulations and Restrictions

²⁸An entity that receives a transfer of non-LSC funds is not a subrecipient for purposes of the program letter or the proposed regulation, even if the transferred funds are to be used for the direct representation of eligible clients, and the entity is not required to disclose case information under the Burton Amendment.

²⁹However, recipients should not provide training or support to *pro bono* attorneys on issues relating to their attorneys' fee claims.

Finally, we wish to make several general points regarding the applicability of the LSC restrictions to individual private attorneys who participate in recipient PAI activities, either as a member of a compensated *judicare* panel or on a *pro bono* basis. Nothing in the LSC Act, the appropriations act or the LSC regulations prohibits recipients from referring, or private attorneys from agreeing to undertake, cases or matters for ineligible aliens³⁰ or prisoners, or other cases (e.g., class actions, welfare reform, legislative or administrative advocacy) that the recipient would not be permitted to undertake directly,³¹ as long as the recipient does not "count" them for CSR purposes, does not provide compensation or reimbursement for expenses for those cases, and does not provide support, training or follow-up services with respect to restricted cases or matters. In addition, the fact that a private attorney participates in a *judicare* or *pro bono* panel run by a recipient or subrecipient has absolutely no effect on any case or matter that the attorney may wish to handle for any client who is referred by the recipient or PAI subgrantee, but is not considered to be a PAI client.

A bar association or *pro bono* program that receives LSC funds from a recipient as part of that recipient's PAI program may use its LSC-funded referral mechanism to refer restricted cases to its private attorney panel. However, it may not use LSC funds received from a recipient to provide private attorneys with compensation, reimbursement, support, training or follow-up on restricted cases. The PAI program

³⁰Section 1626.3 of the Corporation's interim regulations explicitly states that "normal intake and referral services" do not come within the prohibition on providing legal services for or on behalf of an ineligible alien.

³¹Part 1638 of the Corporation's Regulations prohibits recipients and their employees from representing as a client or referring to other recipients individuals to whom they have given unsolicited in-person advice to obtain counsel or take legal action. While it is arguable that this restriction would prohibit the recipient from referring such an individual to a *judicare* or *pro bono* attorney as part of the recipient's PAI program, nothing in the regulation suggests that such a referral is not permissible so long as the attorney is not compensated by the recipient and does not handle the cases as part of the recipient's PAI program. 45 CFR 1638.

may use non-LSC funds it receives from any source, including a recipient, to provide such compensation, support, etc., although the recipient may not "count" the restricted cases for CSR purposes or apply those non-LSC funds against its PAI expenditure requirement .

OIG/OCE Audits of PAI

On several public occasions over the last year the LSC Inspector General, Edouard Quatrevaux, has suggested that the OIG is planning to do a series of special audits of PAI activities. As part of the last CSR special audit, the OIG did review one recipient's oversight of PAI cases that had been referred to private attorneys who undertook *pro bono* representation of eligible clients. The OIG concluded in a draft report that there was inadequate oversight and follow up of those PAI cases, suggesting that the recipient should not have counted them as part of the recipient's 1998 CSR numbers. Similarly, as part of a CSR complaint investigation, members of the on-site team from the LSC Office of Compliance and Enforcement (OCE) suggested that the recipient had done an inadequate job of oversight and follow-up of PAI cases and may not have been in compliance with the requirements of Part 1614 of the LSC regulations. However, there has so far been no follow-up by LSC on the suggestion, and no draft report has been issued to date.

Despite the OIG suggestions, there is no mention in the OIG Strategic Plan or FY 2001 budget submission of any plans to audit PAI programs, and Len Koczur, Assistant IG for Audit has stated that the OIG is not planning a PAI special audit effort. Nevertheless, we may find that as part of planned audits of Program Integrity or Client Trust Funds, the OIG may begin inquiries into related aspects of recipients' PAI programs. In addition, OCE may, as part of its oversight of CSR or in response to complaints made against recipients, conduct additional PAI inquiries. We will remain mindful of the possibility of such OIG or OCE efforts and alert the community in the event that additional inquiries are made.

Linda Perle and Alan Houseman serve as General Counsel to the National Legal Aid and Defender Association, Civil Division. Linda is a Senior Staff Attorney at the Center for Law & Social Policy (CLASP). She can be reached at 202-328-5146 or lperle@clasp.org. Alan is the Executive Director of CLASP and can be reached at 202-328-5141 or ahouse@clasp.org. CLASP is located at 1616 P St., NW, Suite 150, Washington, DC 20036, and the fax number is 202-328-5129.

SUMMARY OF LSC REGULATIONS AFFECTING PAI

SUMMARY OF REFERRAL ISSUES (CLASP, 2000)

When a recipient or PAI subrecipient refers to a private attorney a case or matter that the recipient could undertake directly (eligible client, not prohibited and within priorities):

- Recipient may “count” the case for CSR purposes if fully documented;
- Must have signed citizenship attestation if face-to-face legal assistance beyond advice or brief service;
- Must have retainer agreement if beyond advice and brief service;
- Must document dates, service provided and timely case closure;
- Private attorney may receive compensation from recipient or subrecipient;
- Recipient may provide support, reimbursement for out-of-pocket expenses, training and follow-up services;
- Recipient may use LSC or non-LSC funds for compensation or associated PAI expenses;
- Compensation and recipient’s associated PAI expenses may count toward PAI allocation;
- Case does not need to be reported under the Burton Amendment;
- Recipient may co-counsel with the private attorney; and
- If the private attorney receives compensation –
 - < the private attorney must keep time records,
 - < the private attorney may not seek attorneys’ fees,

- < the private attorney must identify the client and prepare a statement of facts;
- If the private attorney handles the case or matter on a *pro bono* basis:
 - < the private attorney is not required to keep time records,
 - < the private attorney may seek attorneys' fees for the private attorney's work, but not for work done by recipient co-counsel,
 - < the private attorney is not required to identify the client or prepare a statement of facts.

When a recipient or PAI subrecipient refers to a private attorney a case or matter that the recipient could not undertake directly (ineligible client, prohibited case or not within priorities):

- Recipient may use its PAI referral system;
- Recipient may not “count” case for CSR purposes;
- Not required to have citizenship attestation, retainer agreement or other documentation;
- Private attorney may not receive LSC funds as compensation from recipient;
- Recipient may transfer non-LSC funds to private attorney to be used to support case;
- Non-LSC funds transferred to private attorney for case may not “count” as part of recipient's PAI allocation;
- Recipient may not co-counsel with private attorney on the case;
- Recipient may not provide support, reimbursement for out-of pocket expenses, training or follow-up services;
- Subrecipient may not provide support, reimbursement for out-of pocket expenses, training or follow-up services using LSC funds from the recipient, but may use other funds;
- Private attorney is not required to keep time records
- Private attorney may seek attorneys’ fees, may charge client for services or may enter into contingent fee arrangement with the client; and
- Private attorney is not required to identify the client or prepare a statement of facts.

.16 **GLSP Administrative Forms for Coordinators**

16.10 Monthly PAI Statistics Form and Instructions

GEORGIA LEGAL SERVICES PROGRAM
PRIVATE ATTORNEY INVOLVEMENT
MONTHLY STATISTICS

TO: Cynthia Grant

SUBMITTED BY: _____, OFFICE:

MONTH: _____, 2002

RE: Cases Opened By GLSP and Referred to Private Attorneys to Handle

_____ # Pro Bono Cases This Month
Month

_____ # Judicare Cases This

_____ # Attorneys Accepting Pro Bono Cases YTD
Accepting Judicare Cases YTD

_____ # Attorneys

_____ # Pro Bono Volunteers on Panel
on Panel

_____ #Judicare Volunteers

**RE: Cases Referred Out to Agencies or Private Attorneys
(cases never opened or which were opened, closed, and then referred)**

_____ AGENCY REFERRALS

_____ REFERRALS TO PRIVATE ATTORNEYS (total of the following only):

_____ Reduced Fee (clients ineligible for any reason, where attorneys
have agreed to accept type of case based on our referral, for flat or
reduced fee)

_____ General Referrals (also known as Referral Service)

~~~~~  
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PLEASE NOTE: This form must be received by the close of business on the 5th day of the following month. See back of form for instructions.

6/02

INSTRUCTIONS

PRIVATE ATTORNEY INVOLVEMENT MONTHLY STATISTICS

Much of this form should be self-explanatory. The following is offered to clarify any uncertainties you may have. If you have additional questions, please call the Pro Bono Project before you complete the form.

RE: Cases Opened By GLSP and Referred to Private Attorneys to Handle

1. **Number of Pro Bono Cases (Current Month):** Insert the number of pro bono cases you have opened during this month.
2. **Number of Attorneys Accepting Pro Bono Cases YTD (So Far This Year):** This is a running total for the year. For example, in January, you may refer 12 cases to 9 attorneys, three attorneys having accepted 2 cases. The number here would be 9. By March, you may have referred out 22 pro bono cases, but because some of the attorneys accepting cases in March had already been counted in January and February, your running total might only be, for example, 16.
3. **Number of Volunteers on Panel (So Far This Year):** In January, list the total number of attorneys on your pro bono panel. This number will remain the same each month, unless you receive new volunteers or remove old ones from your list for any reason.
4. **Number of Judicare Cases (Current Month):** Insert the number of judicare cases you have opened during this month.
5. **Number of Attorneys Accepting Judicare Cases YTD (So Far This Year):** Same as #2 above.
6. **Number of Judicare Volunteers on Panel (So Far This Year):** Same as #4, except you are counting judicare panelists instead of pro bono.

RE: Cases Referred Out to Agencies or Private Attorneys

(cases never opened or which were opened, closed, and then referred)

7. **Agency Referrals:** All referrals made by all staff members in your office during this month to any agency, (e.g., Social Security, DFCS, a CAP agency, public housing authority).

8. **Referrals to Private Attorneys:** This number should equal the total of the two subcategories underneath it (**Reduced Fee and General Referrals**). It should be comprised of all referrals to private attorneys by all staff members in your office.

- a) **Reduced Fee:** If your office has such a program, count the number of these referrals during the month. These are referrals where the client must pay his/her own fee, but where the attorneys have agreed to handle these cases for a flat, reduced fee.
- b) **General Referrals:** These are referrals to private attorneys of cases which GLSP will not handle, and which are not reduced fee referrals. Again, if more than one staff member makes such referrals in your office, you must enter the total for all staff members on this form.

AFFIDAVIT OF POVERTY

BEFORE THE UNDERSIGNED officer authorized to administer oaths appeared _____, who having been duly sworn states on oath that he/she is unable to pay the costs in this action. This affidavit is given for the purpose of allowing _____ to proceed in forma pauperis and for the purpose of relieving him/her from paying the costs in this case, pursuant to O.C.G.A. Sections 15-6-77, 9-15-2, and 9-15-4.

Sworn to and subscribed before me

this ____ day of _____, 20__

NOTARY PUBLIC, STATE AT LARGE